Decision for dispute CAC-UDRP-107574

Case number	CAC-UDRP-107574
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Domain names	lindtstores.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Chocoladefabriken Lindt & Sprüngli AG

Complainant representative

Organization	SILKA AB

Respondent

Name	Maria Mourao

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 registered owner of the trademark LINDT, registered in Germany, the United States, Canada, Brazil, Switzerland, Australia, and with the WIPO and the EUIPO, *inter alia*, as follows:

- GPTO Reg. No. 91037, registered on September 27, 1906;
- USPTO Reg. No. 87306, registered on July 9, 1912;
- International Reg. No. 217838, registered on March 2, 1959; and
- EUIPO Reg. No. 000134007, registered on September 7, 1998.

FACTUAL BACKGROUND

The Complainant, founded in 1845, is a well-known chocolate manufacturer based in Switzerland. As a leader in the market for premium quality chocolate, the Complainant produces chocolates at 12 proprietary production facilities located across Europe and the United States. These products are distributed through 38 subsidiaries and branch offices, as well as a network of over 100 independent distributors worldwide. The Complainant also operates more than 500 proprietary retail outlets. Employing approximately 15,000 individuals, the Complainant reported consolidated sales of CHF 5.47 billion in 2024.

The Complainant and its affiliated entities hold numerous domain names that encompass the LINDT mark. These domain names are actively used to promote the Complainant's products across a wide range of jurisdictions worldwide. The Complainant is consistently featured in rankings of the largest and most renowned chocolate brands and manufacturers globally. Furthermore, the Complainant has successfully prevailed as the Complainant in numerous domain name dispute proceedings involving the LINDT brand.

The disputed domain name was registered on April 8, 2025. It previously resolved to a website that impersonated or falsely purported to be an official site of the Complainant. That website prominently and repeatedly displayed the LINDT mark and logo in connection with the purported sale of discounted LINDT-branded chocolates. At present, the disputed domain name no longer resolves to an active website.

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.

(i) The Complainant holds rights in the trademark LINDT, as set forth in the "Identification of Rights" section above. The disputed domain name is confusingly similar to the Complainant's trademark LINDT, as it incorporates the LINDT mark in its entirety, followed only by the descriptive term "stores."

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is neither licensed nor otherwise authorized to use the Complainant's LINDT mark, nor is the Respondent commonly known by the disputed domain name. Moreover, the Respondent does not use the disputed domain name for any bona fide offering of goods or services, nor for any legitimate noncommercial or fair use. Rather, the disputed domain name previously resolved to a website that impersonated or passed off as an official website of the Complainant. The site prominently and repeatedly displayed the LINDT mark and logo in connection with the purported sale of discounted LINDT-branded chocolates. The Respondent did not accurately and prominently disclose its lack of affiliation with the Complainant. At present, the disputed domain name no longer resolves to an active website.

(iii) The disputed domain name was registered and is being used in bad faith, thereby satisfying the cumulative requirement under the Policy that both bad faith registration and bad faith use be established. The Respondent registered the disputed domain name incorporating the well-known and widely recognized LINDT trademark, despite having no rights or legitimate interests in doing so. The website to which the disputed domain name previously resolved impersonated or passed off as an official website of the Complainant, prominently displaying the LINDT mark and logo in multiple locations in connection with the purported sale of discounted LINDT-branded chocolates. The Respondent failed to provide any accurate or prominent disclaimer of its lack of affiliation with the Complainant. At present, the disputed domain name no longer resolves to an active website. The Respondent also appears to have deceptively collected users' personal information by presenting the website as being authorized by the Complainant, thereby creating a significant phishing risk. The misleading presentation of the website strongly suggests an intent to exploit the collected information for future fraudulent purposes, such as phishing campaigns or other brand-related scams. In addition, following disclosure of the underlying registrant information by the applicable registrar, it is evident that the Respondent registered the disputed domain name using false details. The disclosed registrant identity, "Maria Mourao," has also been identified as the respondent in another recent UDRP proceeding.

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 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

Paragraph 15(a) of the Rules for the UDRP ('the Policy') instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy requires that the Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

(1) the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

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

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

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations and inferences set forth in the Complaint as true unless the evidence is clearly contradictory. See Vertical Solutions Mgmt., Inc. v. webnetmarketing, inc., FA 95095 (FORUM July 31, 2000) (holding that the respondent's failure to respond allows all reasonable inferences of fact in the allegations of the complaint to be deemed true); see also Talk City, Inc. v. Robertson, D2000-0009 (WIPO Feb. 29, 2000) ("In the absence of a response, it is appropriate to accept as true all allegations of the Complaint.").

Rights

The Complainant asserts ownership of the registered trademark LINDT, as identified in the "Identification of Rights" section above. The Panel recognizes that an international or national trademark registration is sufficient to establish rights in a mark. Accordingly, the Panel finds that the Complainant has established its rights in the LINDT trademark.

The Complainant further contends that the disputed domain name **<lindtstores.com>** is confusingly similar to its LINDT mark, as it fully incorporates the LINDT mark with the mere addition of the term "stores." The addition of a generic or descriptive term, together with a gTLD, does not suffice to distinguish a disputed domain name from a trademark. See SportScheck GmbH v. wu han yu chong shang mao you xian gong si, CAC-UDRP-107391 (CAC April 14, 2025) ("The addition of a generic or descriptive term and a gTLD does not sufficiently distinguish a disputed domain name from a trademark."). Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's LINDT mark.

No rights or legitimate interests

A complainant must first make a prima facie case that a respondent lacks rights and legitimate interests in the disputed domain name under Policy paragraph 4(a)(ii), after which the burden shifts to the Respondent to demonstrate it does have rights or legitimate interests. See Section 2.1, WIPO Jurisprudential Overview 3.0 ("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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.").

Relevant information, such as WHOIS data, can serve as evidence to demonstrate whether a respondent is or is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii). The Panel notes that the WHOIS data lists "Maria Mourao" as the registrant, and there is no evidence in the record indicating that the Respondent was authorized to use the mark. Therefore, the Panel finds that the Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii).

The Complainant asserts that the website to which the disputed domain name previously resolved impersonated or passed off as an official site of the Complainant. The site prominently and repeatedly displayed the LINDT mark and logo in connection with the sale of discounted LINDT-branded chocolates. The Respondent did not accurately and prominently disclose its lack of affiliation with the Complainant. Although the disputed domain name no longer resolves to an active website, the foregoing facts demonstrate that the Respondent engaged in passing off by falsely presenting the disputed site as affiliated with the Complainant's legitimate business. The Complainant has submitted screenshots of the website to which the disputed domain name resolved, alongside a screenshot of the Complainant's official website.

In the absence of any Response, it is difficult to determine from the available screenshot whether the disputed website was offering counterfeit goods, competing goods, or the Complainant's genuine products. If the Respondent was offering only the Complainant's genuine goods, the question of fair use must be considered. The leading authority on this issue is Oki Data Americas, Inc. v. ASD, Inc., WIPO Case No. D2001-0903, in which the respondent was a reseller of the complainant's OKIDATA products and had registered

the domain name <okidataparts.com> for that purpose. The panel in that case held that such use may constitute a bona fide offering of goods or services under paragraph 4(c)(i) of the Policy, provided that certain conditions are met:

- The respondent must actually be offering the goods or services at issue;
- The respondent must use the site to sell only the trademarked goods (otherwise there is a risk that the respondent is using the trademark in the domain name to bait consumers and switch them to other products);
- The site must accurately disclose the respondent's relationship with the trademark owner; and
- The respondent must not seek to corner the market in all relevant domain names, thereby preventing the trademark owner from reflecting its own mark in a domain name.

The Panel notes that the Respondent's website did not disclose its relationship or lack thereof with the Complainant. Accordingly, even if the Respondent was offering only the Complainant's genuine goods, such use does not constitute a bona fide offering of goods or services under paragraph 4(c)(i), nor a legitimate noncommercial or fair use under paragraph 4(c)(iii) of the Policy. Furthermore, when a respondent uses a disputed domain name to impersonate a complainant, such conduct does not qualify as a bona fide offering or a legitimate noncommercial or fair use. See Würth International AG v. Mandy Mohr, CAC-UDRP-107275 (CAC March 17, 2025) (holding that the use of a domain name to feature the complainant's mark and related content did not qualify as a bona fide offering or a legitimate noncommercial use under Policy paragraph 4(c)(i) or (iii)).

Based on the foregoing, the Panel finds that the Complainant has established a prima facie case against the Respondent. As the Respondent has failed to submit a Response or otherwise rebut the Complainant's allegations, the Complainant respectfully requests that the Panel find that the Respondent has no rights or legitimate interests in the disputed domain name under paragraph 4(a)(ii) of the Policy.

Bad faith

Paragraph 4(b) of the Policy provides a non-exclusive list of circumstances that evidence registration and use of a domain name in bad faith. Any one of the following is sufficient to support a finding of bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Complainant asserts that the Respondent registered and was using the disputed domain name in bad faith by intentionally disrupting the Complainant's business and seeking to attract Internet users to a competing website for commercial gain. The Panel notes that when a respondent impersonates a complainant through a disputed domain name, such conduct constitutes bad faith disruption of the complainant's business under paragraph 4(b)(iii) of the Policy and reflects an intent to commercially benefit by creating confusion under paragraph 4(b)(iv) of the Policy. See Xiaomi Inc. v. Nguyễn Đức Đạt (N/A), CAC-UDRP-107237 (CAC Feb. 12, 2025) (finding that the respondent's use of a disputed domain name to offer competing products disrupted the complainant's business and misled Internet users by falsely suggesting affiliation with the complainant, thereby supporting a finding of bad faith registration and use under Policy paragraph 4(b)(iv)).

As previously noted, the disputed domain name formerly resolved to a website that impersonated or passed off as an official website of the Complainant. The site prominently and repeatedly displayed the LINDT mark and logo in connection with the purported sale of discounted LINDT-branded chocolates. The Panel finds that the Respondent's conduct was designed to impersonate the Complainant and mislead Internet users into believing they were interacting with the Complainant or with an authorized outlet. Such behavior not only creates a likelihood of confusion but also intentionally diverts consumers away from the Complainant's official website, thereby interfering with the Complainant's business operations and exploiting the goodwill associated with its mark for commercial gain.

Accordingly, the Panel concludes that the Respondent's conduct satisfies the criteria for bad faith registration and use under paragraphs 4(b)(iii) and 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **lindtstores.com**: Transferred

PANELLISTS

Name	**Mr. Ho-Hyun Nahm Esq.**

DATE OF PANEL DECISION 2025-06-12

Publish the Decision