Decision for dispute CAC-UDRP-107645

Case number	CAC-UDRP-107645
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Domain names	lindtcoupon.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Chocoladefabriken Lindt & Sprüngli AG

Complainant representative

Organization	SILKA AB

Respondent

Name	guy marsal

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 numerous registrations for the trademark "LINDT", including the international trademark No 217838, registered on March 2, 1959, for goods in class 30.

The disputed domain name was registered by the Respondent on January 18, 2025.

FACTUAL BACKGROUND

The Complainant states that it is a well-known chocolate maker based in Switzerland, founded in 1845.

The Complainant points out that it produces chocolates from 12 own production sites in Europe and the United States.

The Complainant underlines that its products are sold by 38 subsidiaries and branch offices, by more than 500 own shops, as well as via a network of over 100 independent distributors around the globe.

The Complainant submits that it has around 15,000 employees and reported sales of CHF 5.47 billion in 2024.

The Complainant clarifies that it holds numerous domain names which encompass the LINDT mark, used to advertise the

Complainant's offerings across a wide range of territories around the world.

The Complainant observes that it is repeatedly featured in lists collating the largest and most popular chocolate brands in the world.

The Complainant states that it has a strong social media presence with, for example, over 7 million followers on Facebook, more than 180 thousand followers on Instagram, and over 140 thousand followers on LinkedIn.

The Complainant notes that it has been a successful complainant in many previous domain name dispute proceedings involving the LINDT trademark.

The Complainant considers that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights, because it incorporates the Complainant's trademark, and the fact that it includes the descriptive commercial term 'coupon' and the generic top-level domain ".com" does not affect the confusing similarity.

The Complainant submits that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant points out that to its knowledge, the Respondent does not have trademark rights for, nor is it commonly known by, 'lindtcoupon' or any similar term.

The Complainant states that 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 submits that the Respondent has not used, nor prepared to use, the disputed domain name in connection with a bona fide offering of goods or services, nor a legitimate non-commercial or fair use.

The Complainant states that, although the disputed domain name does not currently resolve to active content, it previously triggered a browser-generated security warning in Google Chrome stating that attackers on the site might attempt to trick users into installing software or disclosing sensitive information, such as passwords or credit card numbers, and considers that such use is clearly indicative of phishing or other deceptive conduct and is fundamentally incompatible with any rights or legitimate interests under the Policy.

The Complainant highlights that the nature of the disputed domain name, juxtaposing the Complainant's LINDT trademark with the descriptive commercial term 'coupon', creates a high risk of implied affiliation and cannot constitute fair use.

The Complainant submits that the Respondent has both registered and is using the disputed domain name in bad faith, in accordance with paragraph 4(a)(iii).

The Complainant underlines that it is internationally established and recognised and that previous UDRP panels have acknowledged the distinctiveness of, and renown and recognition attached to, the Complainant's trademark.

The Complainant considers that, taking into account that basic Google searches for 'lindt' and 'lindtcoupon' return results clearly related to the Complainant's products, including official sites and third-party discount platforms, it is evident that the simplest degree of due diligence would have made any prospective registrant of the disputed domain name aware of the Complainant's rights in the LINDT trademark.

The Complainant argues that the structure of the disputed domain name itself evidences deliberate targeting of the Complainant's trademark and implies an affiliation with, or endorsement by, the Complainant.

The Complainant adds that the possible use of the disputed domain name, designed in a way aimed at evoking trust, for abusive purposes such as phishing or identity theft, evidenced by the above-mentioned security warning, further supports the inference of bad faith registration and use.

The Complainant notes that the disputed domain name is configured with multiple MX records, which strongly suggests that the Respondent has used or intends to use the disputed domain name for email-based phishing, and considers that this constitutes further evidence of bad faith.

PARTIES CONTENTIONS

The Complainant, relying on the arguments summarised above, 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

In accordance with paragraph 4(a) of the Policy, in order to obtain the transfer of the disputed domain name, the Complainant has to demonstrate that:

(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 disputed domain name; and

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

IDENTICAL OR CONFUSINGLY SIMILAR

The first requirement that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant’s trademark or service mark rights.

There are two elements of this test: the Complainant must demonstrate that it has rights in a trademark or service mark and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark or service mark.

The Complainant has proven ownership, among others, of the registered trademark “LINDT”, identified in section “Identification of rights” above.

On the question of identity or confusing similarity, what is required is simply a comparison and assessment of the disputed domain name itself to the Complainant’s trademark.

The disputed domain name differs from the Complainant’s trademark “LINDT” only by the addition of the word "coupon", and by the presence of the top-level domain ".COM".

It is a common view that where a trademark is the distinctive part of a domain name, the domain name is considered to be confusingly similar to the trademark (see, for example, WIPO case No. D2017-1266).

In the present case, the addition of the word "coupon" has no impact on the distinctive part “LINDT”. It is well established that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity.

It is also well established that the top-level domain may generally be disregarded in the confusing similarity test (see, for example, WIPO case No. D2016-2547).

It is also well established that the top-level domain may generally be disregarded in the confusing similarity test (see, for example, WIPO case No. D2016-2547).

Therefore, the Panel considers that the disputed domain name is confusingly similar to the Complainant's trademark “LINDT”.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

RIGHTS OR LEGITIMATE INTERESTS

The second requirement that the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in the disputed domain name:

(i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] 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 [disputed] 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 [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

This is a non-exhaustive list of circumstances in which a respondent can show rights or legitimate interests in a domain name.

The onus of proving this requirement falls on the Complainant. UDRP panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative".

Accordingly, it is usually sufficient for a complainant to raise a prima facie case against the respondent and the burden of proof on this requirement shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in a domain name.

The Panel finds that the Complainant has made out a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name.

In particular, the Complainant states that:

- to its knowledge, the Respondent does not have trademark rights for, nor is it commonly known by, 'lindtcoupon' or any similar term;

- 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 Respondent has not used, nor prepared to use, the disputed domain name in connection with a bona fide offering of goods or services, nor a legitimate non-commercial or fair use;

- the disputed domain name is currently inactive and previously triggered a browser-generated security warning stating that attackers on the site might attempt to trick users into installing software or disclosing sensitive information;

- the nature of the disputed domain name, juxtaposing the Complainant's LINDT trademark with the descriptive commercial term 'coupon', creates a high risk of implied affiliation and cannot constitute fair use.

In the absence of a Response, there is no indication in the present case that the Respondent is commonly known by the disputed domain name.

Furthermore, the Respondent has failed to demonstrate any of the other non-exclusive circumstances evidencing rights or legitimate interests under paragraph 4(c) of the Policy or other evidence of rights or legitimate interests in the disputed domain name.

The Respondent does not appear to make any legitimate non-commercial or fair use of the disputed domain name, nor any use in connection with a bona fide offering of goods or services. Indeed, the disputed domain name is inactive.

The Panel considers that, on the balance of probability, the Respondent knew of the reputation and goodwill that the Complainant had established in the trademark "LINDT" and registered the disputed domain name with knowledge of the Complainant's rights and reputation. Indeed, it is not conceivable that the Respondent did not have the Complainant's trademark in mind, when registering and using the disputed domain name. Under these circumstances, it cannot be concluded that the Respondent is making a "fair" use of the disputed domain name.

Taking into account that the Respondent is not commonly known by the disputed domain name, that the Respondent has no connection or affiliation with the Complainant, that the Respondent has not received any license or consent to use the Complainant's trademark in any way, that the disputed domain name is inactive, the Panel cannot imagine any possible legitimate justification for this registration, and the Respondent has not come forward with any explanation that demonstrates any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

REGISTERED AND USED IN BAD FAITH

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent.

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, including:

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

(ii) [the Respondent] [has] registered the [disputed] 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 [disputed] domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the [disputed] domain name, [the Respondent] [has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the Respondent's] web site or location or of a product or service on [the Respondent's] web site or location.

The Panel on the basis of the evidence presented, agrees with the Complainant's contentions that the disputed domain name was registered in bad faith and that it has been used in bad faith.

The Panel observes that it is well established that the scenarios described in UDRP paragraph 4(b) are non-exclusive and merely illustrative. Therefore, even where a complainant is not able to demonstrate the literal application of one of the above-mentioned scenarios, evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behaviour detrimental to the complainant’s trademark would also satisfy the complainant’s burden.

Taking into account the distinctiveness and reputation of the trademark “LINDT” also recognized by other panels, the Panel agrees that it is inconceivable that the Respondent was not aware of the Complainant's rights in the Complainant's trademark when registering the disputed domain name.

Other panels considered that knowledge of a corresponding mark at the time of the domain name’s registration can suggest bad faith (see, for example, WIPO Case No. D2017-0100). The Panel shares this view.

As regards the fact that the disputed domain name is inactive, the Panel points out that other panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding (see, for example, WIPO Case No. D2024-1504). The Panel considers that taking into account the circumstances of the present case, the non-use of the disputed domain name does not prevent a finding of bad faith.

Moreover, other panels considered that the risk that a domain name is used for the sending and receiving of phishing e-mails may exist where a domain name that is confusingly similar to the Complainant’s well-known trademark has been created by the Respondent, and in the absence of the Respondent's explanation as regards the creation of MX records (see CAC Case No. 104862). The Panel agrees with this view and considers that, in the present circumstances, the existence of MX records for the disputed domain name supports a finding of bad faith. This finding is corroborated by the above-mentioned browser-generated security warning.

The Panel observes that if the Respondent had legitimate purposes in registering and using the disputed domain name it would have filed a Response in this proceeding.

The Panel, having taken into account the Respondent's knowledge of the Complainant's trademark at the time of the disputed domain name registration, that no response to the complaint has been filed, that MX records have been created, that the disputed domain name is inactive and that there is no evidence of a plausible good faith use to which the Respondent might put the disputed domain name, considers that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith within the meaning of paragraph 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. **lindtcoupon.com**: Transferred

PANELLISTS

Name	**Michele Antonini**

DATE OF PANEL DECISION 2025-07-19

Publish the Decision