

## **ADMINISTRATIVE PANEL DECISION**

LinkedIn Corporation v. Shubham Mishra, News  
Case No. D2022-0675

### **1. The Parties**

The Complainant is LinkedIn Corporation, United States of America (“United States”), represented by The GigaLaw, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Shubham Mishra, News, India.

### **2. The Domain Name and Registrar**

The disputed domain name <downloadlinkedinvideo.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 28, 2022. On February 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 2, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 3, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on March 4, 2022.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 28, 2022. The Respondent sent informal email communications on March 3, 2022 and on March 14, 2022. The Center notified the Parties that it would appoint the panel on March 29, 2022.

The Center appointed Marilena Comanescu as the sole panelist in this matter on March 31, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant, founded in 2003, is currently one of the world's largest professional network on the Internet, with 810 million members in 200 countries and regions. The Complainant's services enable users to publish and view videos, and the Complainant also offers a service called "LinkedIn Learning" that offers thousands of expert-led course videos for a paid subscription.

The Complainant became public company on May 18, 2011 and it was acquired by the Microsoft Corp. in 2016. At the time of the present Complaint, the Complainant has more than 18,000 full time employees with more than 30 offices in cities around the world and operates in 25 languages.

The Complainant holds approximately 235 registrations in at least 62 jurisdictions worldwide for trademarks that consist of, or include, the mark LINKEDIN, such as the following:

- the Indian trademark registration number 3535835 for the word LINKEDIN, filed and registered on April 28, 2017, and covering services in Nice Class 41; and
- the United States trademark registration number 3074241 for the word LINKEDIN, registered on March 28, 2006, and covering services in Nice Class 35.

The Complainant owns numerous domain names including the mark LINKEDIN, the primary website is available at the domain name <linkedin.com> which was created on November 2, 2002.

The disputed domain name <downloadlinkedinvideo.com> was registered on October 25, 2019 and, at the time of filing the Complaint, it was used in connection with a website that allows Internet users to download videos from the Complainant's website.

The Respondent is a member of the Complainant's professional network, with an account available in the English language (Annex A1 to amended Complaint).

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name is confusingly similar to its worldwide well-known trademark LINKEDIN registered and used extensively since 2003; the Respondent has no rights or legitimate interests in the disputed domain name; the Respondent registered the disputed domain name in bad faith, infringing the provisions of the Complainant's User Agreement, to which the Respondent agreed when registering its LinkedIn account and which prohibits users from violating the intellectual property rights of the Complainant, including without limitation to the use and registration of the LINKEDIN trademarks. Also, the Respondent is using the disputed domain name in bad faith in breach of the United States copyright law, as well as the Complainant's Users Agreement which stipulates that the copyright owners have the exclusive rights to, among other things, reproduce their works.

##### **B. Respondent**

On March 3, 2022, the Center received an email communication from the Respondent saying "why are you sending this [e]mail to me". Also, on March 14, 2022, the Respondent sent another email communication stating that "what is it and why are you sending me, so please call me on [...] but I can speak Hindi only."

The Respondent did not formally reply to the Complainant's contentions.

## 6. Discussion and Findings

In view of the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

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

The Panel will further analyze the potential concurrence of the above circumstances.

### A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the LINKEDIN trademark.

The disputed domain name <downloadlinkedinvideo.com> incorporates the Complainant's trademark LINKEDIN with additional terms, "download" and "video". However, such additions do not prevent a finding of confusing similarity as the Complainant's trademark is clearly recognizable within the disputed domain name.

Numerous UDRP panels have considered that the addition of other terms (whether descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name would not prevent a finding of confusing similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain ("gTLD") (e.g., ".com", ".site", ".info", ".shop") may typically be disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark LINKEDIN, pursuant to the Policy, paragraph 4(a)(i).

### B. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license or authorization whatsoever to use the mark LINKEDIN, that the Respondent is not commonly known by the disputed domain name, and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods and services.

Under the Policy, "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". See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not replied to the Complainant's contentions and has not come forward with relevant evidence to rebut the Complainant's *prima facie* case.

In the present matter, the Respondent has used the disputed domain name in connection with a website that allows Internet users to download videos from the Complainant's website, starting with a seven-day free trial. The Complainant asserts that such use is in violation of the Complainant's Terms of Use from its website and the copyright law of the United States. The website also displays third party advertisements and it is indicated on the bottom of the homepage that "Contact us for Advertisement".

In addition, and without prejudice to the above, the nature of the disputed domain name, comprising the Complainant's well-known trademark in its entirety in combination with descriptive words related to the Complainant's business, carries a risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

For all these reasons, the Panel finds that the second element of the Policy is established, and the Respondent has no rights or legitimate interests in respect of the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

### **C. Registered and Used in Bad Faith**

The Complainant holds approximately 235 registered trademarks worldwide for LINKEDIN and the first mark was registered in 2006 in the United States, claiming first use in commerce since 2003.

Previous decisions under the Policy have established that the Complainant's LINKEDIN trademark is well known worldwide. See *LinkedIn Corporation v. David Naranjo, All Play Media*, WIPO Case No. [D2019-2784](#) and cases cited therein. The disputed domain name <downloadlinkedinvideo.com> was created in 2019 and incorporates the Complainant's mark with the additional terms "download" and "video", closely related to the Complainant's services. Having in view the above, the Panel finds that the disputed domain name was registered in bad faith, with knowledge of the Complainant, its business, and particularly targeting its LINKEDIN trademark.

Paragraph 4(b) of the Policy provides a non-exclusive list of scenarios that constitutes evidence of bad faith. Also, the Panels have been prepared to draw inferences concerning a respondent's (bad faith) intent from all the relevant facts and circumstances.

In the present case, the disputed domain name was used in connection with a website displaying the Complainant's name, trademark and logo and allowing Internet users to download videos from the Complainant's website, starting with a seven-day free trial. The Complainant asserts that such use is violating both the Complainant's Terms of Use from its website and the copyright law of the United States. The website also displays third party advertisements and it is indicated on the bottom of the homepage that "Contact us for Advertisement". Therefore, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website.

The Respondent did not put forward any arguments in its favor.

In one of its communications to the Center, the Respondent claimed that he speaks only Hindi. Considering in particular the composition of the disputed domain name incorporating the Complainant's mark together with two English words; the English content on the website under the disputed domain name; the two informal email communications in English sent by the Respondent to the Center; the Registrar's confirmation that English being the language of the Registration Agreement for the disputed domain name, and the LinkedIn account of the Respondent in English, this Panel believes that the Respondent has satisfactory knowledge in English to understand and address the claims brought against it in this proceeding and that such claim of the Respondent was made merely in an attempt to try to somehow elude the present proceeding. Having in view the other circumstances of this case, such facts constitute further evidence of bad faith behavior.

Furthermore, it has been consistently found by previous UDRP panels that the mere registration of a domain name that is identical or confusingly similar to a third party's well-known trademark (particularly domain

names incorporating the mark plus a descriptive term) by an unaffiliated entity can by itself create a presumption of bad faith for the purpose of Policy. See section 3.1.4 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <downloadlinkednvideo.com> be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: April 14, 2022