

ADMINISTRATIVE PANEL DECISION

LinkedIn Corporation v. Jyoti Kumari

Case No. D2022-0677

1. The Parties

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

The Respondent is Jyoti Kumari, India.

2. The Domain Name and Registrar

The disputed domain name <linkedindownloader.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 1, 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 2, 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 did not submit any response. Accordingly, the Center notified the Respondent’s default on March 29, 2022.

The Center appointed Zoltán Takács as the sole panelist in this matter on April 4, 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

Founded in 2003, the Complainant is the world's largest professional network on the Internet.

The Complainant has more than 18,000 full-time employees with more than 30 offices in cities around the world and operates websites in 25 languages.

The Complainant's extensive portfolio of trademarks consisting of or comprising the term "LinkedIn" includes among others the United States Trademark Registration No. 3074241 for the word mark LINKEDIN, registered since March 28, 2006, for online business network services of class 35 of the Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks.

The Complainant owns numerous domain names, including <linkedin.com> which it registered on November 2, 2002, and which it uses in connection with its primary website.

The disputed domain name was registered on February 4, 2021, and has been used in connection with a website that allows anyone to download videos from the Complainant's website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its trademark since it incorporates the LINKEDIN trademark entirely, with the addition of the word "downloader" after the trademark.

The Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name and is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii) or (iii) of the Policy.

The Complainant submits that the Respondent has registered and is using the disputed domain name in bad faith since:

- it registered the disputed domain name with knowledge of its widely known LINKEDIN trademark and business, seeking to obtain a commercial benefit by attracting Internet users to its website under the disputed domain name;
- its use of the disputed domain name in connection with a website that allows anyone to download videos from the Complainant's website is in violation of the US Copyright law as well as of the Complainant's own User Agreement, and
- its registration of another domain name, <linkedindownload.com>, amounts to pattern of abusive registration of domain names within the meaning of paragraph 4(b)(ii) of the Policy.

The Complainant requests that the disputed domain name <linkedindownload.com> be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "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".

It has been a consensus view in UDRP decisions that a respondent's default (*i.e.*, failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that;

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (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.

A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, there are two requirements which the Complainant must establish, first that it has rights in a trademark or service mark, and second that the disputed domain name is identical or confusingly similar to the trademark or service mark.

It has been a consensus view among UDRP panels that if the complainant owns a trademark, then it generally satisfies the threshold requirement of having trademark rights.

The Complainant produced proper evidence of having registered rights in the LINKEDIN trademark and for the purpose of this proceeding the Panel establishes that the US Trademark Registration No. 3074241 satisfies the requirement of having trademark rights for the purpose of the Policy.

Having determined the presence of the Complainants' trademark rights, the Panel next assessed whether the disputed domain name is identical or confusingly similar to the trademark.

According to sections 1.7 and 1.8 of the [WIPO Overview 3.0](#), 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. This test typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. Where the relevant trademark is recognizable within the disputed domain name, the addition of other (in this case descriptive) terms would not prevent a finding of confusing similarity under the first element.

According to section 1.11.1 of the [WIPO Overview 3.0](#), the applicable Top-Level Domain ("TLD") in a domain name (in this case ".com") is viewed as a standard registration requirement and as such is generally disregarded under the first element confusingly similar test.

The disputed domain name contains the Complainant's LINKEDIN trademark in its entirety. The Respondent's addition of the term "downloader" to the Complainant's trademark in view of the Panel does not prevent the finding of confusing similarity between the disputed domain name and the Complainant's trademark.

The applicable TLD suffix in the disputed domain name, ".com", should in relation to this administrative proceeding be disregarded.

On the basis of facts and circumstances discussed above, the Panel finds that the disputed domain name <linkedindownloader.com> is confusingly similar to the Complainant's LINKEDIN trademark and that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

In the present case, the Complainant has submitted sufficient and uncontested evidence that it holds well-established rights in the LINKEDIN trademark.

According to section 2.1 of the [WIPO Overview 3.0](#), while 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 often impossible 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 the 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.

The Respondent defaulted and failed to respond, and by doing so failed to offer the Panel any type of evidence set forth in paragraph 4(c) of the Policy, or otherwise counter the Complainants' *prima facie* case.

The Complainant's prior rights in the LINKEDIN trademark long precede the date of registration of the disputed domain name.

The Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use its LINKEDIN trademark in any manner. The disputed domain name consists of the LINKEDIN trademark in its entirety, along with the descriptive term "downloader", and resolves to a website that includes information about the Complainant (e.g., a section entitled, "About LinkedIn"), yet the website fails to include any identifying information as to the relation or lack thereof to the Complainant, reinforcing the false impression that the disputed domain name is in some way associated with the Complainant.

Moreover, the Respondent's use of the disputed domain name in connection with a website that allows anyone to download videos from the Complainant's website would seem to be in violation of the US copyright regulation as well as the Complainant's own User Agreement. These factors would tend to support

the Complainant's *prima facie* case.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of factors which, if found by the panel to be present, shall be evidence of registration and use of a domain name in bad faith. This non-exclusive list includes:

“(i) circumstances indicating that you have registered or you have 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 complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

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

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.”

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark (see section 3.1 of the [WIPO Overview 3.0](#)).

The LINKEDIN trademark of the Complainant, which the disputed domain name incorporates in its entirety, has no dictionary meaning; it is a term invented by the Complainant and therefore highly distinctive for the corresponding goods and services.

The well-known status of the Complainant's LINKEDIN trademark has been recognized by previous UDRP panels (see *LinkedIn Corporation v. Contact Privacy Inc. Customer 0138656558 / Scott Offord, Bytes and Sites Inc*, WIPO Case No. [D2016-1171](#)).

According to section 3.1.4 of the [WIPO Overview 3.0](#), 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 itself create a presumption of bad faith .

As the LINKEDIN trademark of the Complainant has achieved worldwide recognition, it is implausible to presume that the Respondent choose to incorporate it in the disputed domain name for any other reason than to create a false impression of an association with the Complainant and trade off of the goodwill the Complainant has established in its LINKEDIN trademark. This qualifies as bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

The Panel however does not agree with the Complainant's claim that the Respondent's registration of another domain name, <linkedinvideodownloader.com> constitutes a pattern of conduct as required under paragraph 4(b)(ii) of the Policy.

Following receipt of the Center's notice that the registrant behind the disputed domain name in this proceeding is also registrant of another domain name that incorporates its LINKEDIN trademark the

Complainant inquired with the Center whether the two relevant complaints may be consolidated into a single proceeding.

The Center advised the Complainant affirmatively and requested that should the Complainant wishes to consolidate the two cases into a single proceeding it has to withdraw one of the cases and amend the Complaint adding the relevant domain name to the remaining active case.

In its response to the Center's above advice and request, the Complainant decided not to dismiss either complaint or file an amended complaint for consolidation purposes, citing reasons of procedural efficiency.

Section 3.1.2 of the [WIPO Overview 3.0](#) states that establishing a pattern of conduct within the meaning of paragraph 4(b)(ii) of the Policy requires more than one, but as few as two instances of abusive domain name registration.

In *Home Interiors & Gifts, Inc. v. Home Interiors*, WIPO Case No. [D2000-0010](#), the panelist expressed a view that registration of two domain names does not rise to the level of a pattern of conduct within the meaning of paragraph 4(b)(ii) of the Policy.

Also, the majority of UDRP decisions referenced under section 3.1.2 of the WIPO Overview reference more than two (in most cases significantly more than two) abusive domain name registrations for paragraph 4(b)(ii) of the Policy to be applied (see *Telstra Corporation Limited v. Ozurls*, WIPO Case No. [D2001-0046](#); *Scottish Provident Limited v. Scottish Provident Ministry*, WIPO Case No. [D2002-1059](#); *Playboy Enterprises International, Inc. v. Tom Baert*, WIPO Case No. [D2007-0968](#); *Wikimedia Foundation Inc. v. Kevo Ouz a/k/a Online Marketing Realty*, WIPO Case No. [D2009-0798](#); *Halle Berry and Bellah Brands Incorporated v. Alberta Hot Rods*, WIPO Case No. [D2016-0256](#)). The Panel agrees with this prevailing interpretation of applicability of paragraph 4(b)(ii) of the Policy.

Nevertheless, as the totality of facts and circumstances discussed above demonstrate that the Respondent has registered and is using the disputed domain name in bad faith within the meaning of the Policy, the Panel finds that paragraph 4(a)(iii) of the Policy is satisfied.

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 <linkedindownloader.com> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: April 18, 2022