

ADMINISTRATIVE PANEL DECISION

Linde plc v. aaik

Case No. DAE2023-0004

1. The Parties

The Complainant is Linde plc, Ireland, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is aaik, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <gaslinde.ae> is registered with AE Domain Administration (.aeDA).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 6, 2023. On July 6, 2023, the Center transmitted by email to AE Domain Administration (.aeDA) a request for registrant verification in connection with the disputed domain name. On July 7, 2023, AE Domain Administration (.aeDA) transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the UAE Domain Name Dispute Resolution Policy for – UAE DRP approved by .aeDA (the “Policy”), the Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Rules”), and the Supplemental Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 14, 2023. In accordance with the Rules, paragraph 5(a), the due date for Response was August 3, 2023. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent’s default on August 5, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on August 10, 2023. 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 in this administrative proceeding is a public limited company formed under the laws of Ireland with its principal offices in the United Kingdom and United States of America. It is a leading industrial gas and chemical engineering company with sales of USD 31 billion in 2021. The Complainant employs approximately 72,000 people globally and serves customers in more than 100 countries worldwide.

The Complainant has proven to have rights in the LINDE trademarks, which enjoy protection through several registrations.

The Complainant has rights, *inter alia*, in the following trademarks:

- European Union Trade Mark registration no. 136671 for LINDE (device), registered on November 23, 1999;
- International Trademark registration no. 872945 for LINDE(device), registered on December 15, 2004;
- United Arab Emirates trademark registration no. 321895 for LINDE (device), registered on December 9, 2019.

Furthermore, the Complainant has registered the domain names <lindegas.ae>, <linde-gas.ae>, <linde.ae>, <linde.com>, and <lindeplc.com>. These domain names point to the Complainant's website, which enables Internet users to access information about the Complainant and its products. According to Similarweb.com, <linde-gas.ae> ranks at 127,653 in the United Arab Emirates and received 7.7K total visits between February and April 2023.

The disputed domain name <gaslinde.ae> (at the time the Complaint was filed) was linked to a website apparently offering oil and gas products for sale, which compete directly with the Complainant's own offerings.

The disputed domain name was registered on November 14, 2022.

5. Parties' Contentions

A. Complainant

The Complainant claims that:

The Complainant claims that the disputed domain name is confusingly similar to the Complainant's registered trademark; that the Respondent has no rights or legitimate interests whatsoever with respect to the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith.

The Complainant specifically claims that on the website available at the disputed domain name, the Respondent offers and attempts to sell oil and gas products which directly compete with the Complainant's own offerings, and that this use is neither a *bona fide* offering of goods or services nor a legitimate, noncommercial fair use of the disputed domain name. The Complainant, also referring to previous Uniform Domain Name Resolution Policy ("UDRP") decisions, claims that as affirmed by past panels, selling competing goods, coupled with the unauthorized use of a complainant's trademarks in a confusingly similar domain name, does not qualify as a *bona fide* offering of goods or services.

The Complainant further claims that its LINDE trademark is renowned internationally, and that the Respondent, by registering a domain name that incorporates the Complainant's trademark in its entirety combined with the term "gas", relating to the Complainant's industry, has intentionally created a domain

name that is confusingly similar to the Complainant's trademark, as well as to its own <lindegas.ae> and <linde-gas.ae> domain names. As such, the Respondent has demonstrated a knowledge of and familiarity with the Complainant's brand and business. In addition, the Respondent is using a similar version of the Complainant's LINDE logo, while offering services in the same industry. In light of these facts, the Complainant submits that it is not possible to conceive of a plausible situation in which the Respondent would have been unaware of the Complainant's brands at the time the disputed domain name was registered.

The Complainant also states that the Respondent's use of the disputed domain name constitutes a disruption of its business and qualifies as bad faith registration and use under the Policy because the disputed domain name is confusingly similar to the Complainant's trademarks and the website at the disputed domain name offers gas and oil products which compete directly with the Complainant's own services.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraph 6(a) of the Policy requires that the Complainant must demonstrate to the Panel 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 or is being used in bad faith.

Given the similarities between the UAE Policy and the UDRP, the Panel finds it appropriate to refer to UDRP jurisprudence, including reference to the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

A. Identical or Confusingly Similar

The Complainant has established rights in the LINDE trademarks.

The disputed domain name reproduces the LINDE trademark in its entirety combined with the word "gas".

Pursuant to section 1.8 of the [WIPO Overview 3.0](#) which 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. The nature of such additional term(s) may however bear on assessment of the second and third elements."

The inclusion of the term "gas" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's LINDE trademark.

The country code Top-Level Domain ("ccTLD") ".ae" can be ignored when assessing confusing similarity as it is a standard registration requirement.

Therefore, the Panel finds the disputed domain name to be confusingly similar to the LINDE trademark in which the Complainant has rights.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 6(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent does not appear to be commonly known by the name “gas linde” or by any similar name. The Respondent has no connection or affiliation with the Complainant, and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant’s trademark. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In fact, on the website available at the disputed domain name, the Respondent offers and attempts to sell oil and gas products that compete directly with the Complainant’s own offerings. As noted by the Complainant, previous panels have consistently held that selling competing goods, coupled with the unauthorized use of a complainant’s trademarks in a confusingly similar domain name, does not qualify as a *bona fide* offering of goods or services under paragraph 6(c)(iii) of the Policy. Finally, the Respondent has not replied to the Complainant’s contentions, claiming any rights or legitimate interests in the disputed domain name. Indeed, it appears from the documents available in the case file that the Respondent, while acknowledging the Complainant’s rights to the LINDE trademark, refused to voluntarily transfer the disputed domain name to the Complainant, trying instead to sell it at a price (not disclosed) of his choice.

The absence of a response by the Respondent allows the Panel to draw inferences, and under the circumstances, the absence of a response leaves the Complainant’s *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name un rebutted.

The Panel finds that the Complainant has satisfied paragraph 6(a)(ii) of the Policy.

C. Registered or Used in Bad Faith

The Panel, on the basis of the evidence presented, accepts and 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 finds that the Respondent was presumably aware of the LINDE trademark and of the existence of the Complainant and its activity.

The Respondent, by registering a domain name that incorporates the Complainant’s trademark in its entirety combined with the term “gas”, which relates to the Complainant’s industry, has intentionally created a domain name that is confusingly similar to the Complainant’s trademark, as well as to its own <lindegas.ae> and <linde-gas.ae> domain names. As such, the Respondent has demonstrated a knowledge of and familiarity with the Complainant’s brand and business.

This Panel believes that the above shows that the choice of the disputed domain name cannot be a coincidence, and thus indicates the Respondent’s knowledge of the Complainant’s trademark and activity when registering the disputed domain name.

The Respondent’s use of the disputed domain name to resolve to a website offering allegedly competing products and services is also inference of bad faith use pursuant to the Policy.

Further inference of bad faith registration is given by the attempt by the Respondent to sell the disputed domain name to the Complainant at a price of its choosing, likely above the out-of-pocket expenses for the registration of the disputed domain name, which the Complainant offered to cover.

Finally, it is relevant to note that, if the Respondent did have legitimate purposes in registering and using the disputed domain name, it could have responded to the allegations made by the Complainant in this proceeding, but the Respondent chose not to do so.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 6(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <gaslinde.ae> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Panelist

Date: August 24, 2023