

ADMINISTRATIVE PANEL DECISION

Lincoln Global, Inc., The Lincoln Electric Company v. Daniel Moses
Case No. D2024-4414

1. The Parties

Complainants are Lincoln Global, Inc. and The Lincoln Electric Company, United States of America (“U.S.”), represented by CSC Digital Brand Services Group AB , Sweden.

Respondent is Daniel Moses, U.S.

2. The Domain Name and Registrar

The disputed domain name <lincolnelectric1.com> (the “Disputed Domain Name”) is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 28, 2024. On October 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 29, 2024, 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 (Whois Agent (342593383), Whois Privacy Protection Service, Inc.) and contact information in the Complaint. The Center sent an email communication to Complainant on October 30, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 1, 2024.

The Center verified that the Complaint together with the amended 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 Respondent of the Complaint, and the proceedings commenced on November 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 24, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 27, 2024.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on December 3, 2024. 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 Complaint states that “The Lincoln Electric Company and Lincoln Global, Inc.... are sister companies owned by Lincoln Electric Holdings Inc.”. Accordingly, these entities are referred to herein interchangeable as “Complainant”.¹

Complainant states that it was founded in 1895 and today is a publicly traded company (NASDAQ: LECO) and “the world leader in the design, development and manufacture of arc welding products, robotic arc welding systems, plasma and oxy-fuel cutting equipment and has a leading global position in the brazing and soldering alloys market”. Complainant further states that it “has 71 manufacturing locations, including operations and joint ventures in 20 countries and a worldwide network of distributors and sales offices covering more than 160 countries”; that it “employs over 12,000 employees worldwide”; and that it “reported sales of USD \$3.8 billion” in 2022.

Complainant further states that it is the registrant of the domain name <lincolnelectric.com> (which the Panel observes was created on February 24, 1996)² and the owner of multiple registrations for the trademark LINCOLN ELECTRIC, including the following (the “LINCOLN ELECTRIC Trademark”):

- European Union Intellectual Property Office Reg. No. 004725941 (registered November 27, 2006);
- U.S. Reg. No. 2,350,082 (registered May 16, 2000);
- Canada Reg. No. TMA573494 (registered January 13, 2003).

The Disputed Domain Name was created on September 23, 2024. Complainant states that the Disputed Domain Name “redirect[s] to Complainant’s own website” using the domain name <lincolnelectric.com>; that Respondent uses the Disputed Domain Name to “send fraudulent purchase orders from the email address, ‘[...]@lincolnelectric1.com’... to Complainant’s vendors with the intent of defrauding these vendors and obtaining financial information” (Complainant provided a copy of a “Purchase Order” containing the referenced email address); and that “Respondent was previously involved in cases against the Complainant in which domain names have been transferred away from the Respondent to Complainant” (citing *Lincoln Global, Inc., The Lincoln Electric Company v. Daniel Moses, Name Redacted*, WIPO Case No. [D2024-3643](#) (transfer of <lincoln-electric-corp.com>) and *Lincoln Global, Inc., The Lincoln Electric Company v. Daniel Moses*, WIPO Case No. [D2024-3362](#) (transfer of <lincoln-electricinc.com>)). Further, Complainant provides a copy of an undated demand letter sent to Respondent about the Disputed Domain Name, which Complainant states Respondent has ignored.

¹“In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation.” WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.11.1.

² “[I]t has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision.” [WIPO Overview 3.0](#), section 4.8.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, Complainant contends that:

- The Disputed Domain Name is confusingly similar to the LINCOLN ELECTRIC Trademark because, inter alia, "[t]he Disputed Domain Name can be considered as capturing, in its entirety, Complainant's LINCOLN ELECTRIC trademark and simply adding the generic number '1' to the end of the trademark".
- Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, "Respondent is not commonly known by the Disputed Domain Name"; "the pertinent WIPO Registrant Verification identifies the Re[s]pondent as 'Daniel Moses', which does not resemble the Disputed Domain Name in any manner"; "Complainant has not licensed, authorized, or permitted Respondent to register domain names incorporating Complainant's trademark"; "Respondent is using the Disputed Domain Name to redirect to Complainant's official website", which shows that "the Respondent is not using the Disputed Domain Names to provide a bona fide offering of goods or services... nor a legitimate noncommercial or fair use"; "Redirecting the Disputed Domain Name to Complainant's own website is further evidence that Respondent has purposely created the Disputed Domain Name to deceive [I]nternet users into believing that the Disputed Domain Name is associated with Complainant for the purpose of defrauding Complainant's vendors"; and "Respondent registered the Disputed Domain Name on September 23, 2024, which is significantly after Complainant filed for registration of its LINCOLN ELECTRIC trademark with the EUIPO, USPTO, and the CIPO, and also significantly after Complainant's first use in commerce of its trademark in 1915".
- The Disputed Domain Name was registered and is being used in bad faith because, inter alia, "the very composition and use of the Disputed Domain Name to redirect to Complainant's official website, while simultaneously sending fraudulent purchase orders from the Disputed Domain Name to Complainant's vendors for the procurement of goods, makes it clear that Respondent was targeting Complainant and its business"; "Respondent creates a likelihood of confusion with Complainant and its trademarks by registering a domain name that matches Complainant's LINCOLN ELECTRIC trademark, only to then redirect users to Complainant's official website while also sending fraudulent purchase orders to Complainant's vendors"; by being a respondent in other proceedings under the Policy, Respondent has engaged in "a bad faith pattern of 'cybersquatting'"; and "Respondent has ignored Complainant's attempts to resolve this dispute outside of this administrative proceeding".

B. Respondent

Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. 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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Based on the multiple trademark registrations cited in the Complaint, Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy, that is, the LINCOLN ELECTRIC Trademark. [WIPO Overview 3.0](#), section 1.2.1.

The Disputed Domain Name is identical or confusingly similar to the LINCOLN ELECTRIC Trademark. The relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., “lincolnelectric1”), as it is well-established that the top-level domain name (i.e., “.com”) may be disregarded for this purpose. [WIPO Overview 3.0](#), section 1.11: “The applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.”

The second-level portion of the Disputed Domain Name contains the LINCOLN ELECTRIC Trademark in its entirety, plus a space and the numeral “1”. As set forth in [WIPO Overview 3.0](#), section 1.7: “[I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.” Inclusion of the numeral “1” in the Disputed Domain Name does nothing to alleviate confusing similarity for purposes of the Policy, because “[w]here 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”. [WIPO Overview 3.0](#), section 1.8. Further, “the addition or interspersing of other terms or numbers” in a disputed domain name, as here, is “a common, obvious, or intentional misspelling of a trademark [that] is considered by panels to be confusingly similar to the relevant mark for purposes of the first element”. [WIPO Overview 3.0](#), section 1.9.

Of course, the fact that the Disputed Domain Name does not contain a space between the words “Lincoln” and “Electric” (as in Complainant’s registrations for the LINCOLN ELECTRIC Trademark) is irrelevant for purposes of the Policy because spaces “cannot be reproduced in a domain name” and therefore are irrelevant. *Société Air France v. Indra Armansyah*, WIPO Case No. [D2016-2027](#).

Finally, redirecting the Disputed Domain Name to Complainant’s own website and using the Disputed Domain Name in email addresses apparently intended to obtain fraudulent payments from Complainant’s customers is further evidence of confusing similarity because “the content of the website associated with a domain name [may] confirm confusing similarity whereby it appears prima facie that the respondent seeks to target a trademark through the disputed domain name”. [WIPO Overview 3.0](#), section 1.15.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted

the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant 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 complainant, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant 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 registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant's 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 registrant's website or location or of a product or service on the registrant's website or location. Policy, paragraph 4(b).

In the present case, the Panel notes that the LINCOLN ELECTRIC Trademark is a strong trademark based on its numerous registrations worldwide; that Respondent is redirecting the Disputed Domain Name to Complainant's website; that Respondent has used the Disputed Domain Name in email addresses apparently intended to obtain fraudulent payments from Complainant's customers; and that Respondent has lost previous decisions under Policy filed by Complainant also involving the LINCOLN ELECTRIC Trademark. See, e.g., *Lincoln Global, Inc., The Lincoln Electric Company v. Daniel Moses*, WIPO Case No. [D2024-4326](#), and *Lincoln Global, Inc., The Lincoln Electric Company v. Daniel Moses*, WIPO Case No. [D2024-3362](#). Each of these individually, and all the more so collectively, is clearly evidence of bad faith under the Policy, including paragraphs 4(b)(ii) and 4(b)(iv). See, e.g., [WIPO Overview 3.0](#), section 3.1.4 ("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 by itself create a presumption of bad faith"); [WIPO Overview 3.0](#), section 3.1.4 ("redirecting the domain name to the complainant's... website" is evidence of bad faith); [WIPO Overview 3.0](#), section 3.1.4 ("phishing... is manifestly considered evidence of bad faith"); and [WIPO Overview 3.0](#), section 3.1.2 ("establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration" and "may include a scenario where a respondent, on separate occasions, has registered trademark-abusive domain names, even where directed at the same brand owner").

The Panel finds that Complainant has established the third element of the Policy.

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 <lincolnelectric1.com> be transferred to the Complainant.

/Douglas M. Isenberg/

Douglas M. Isenberg

Sole Panelist

Date: December 15, 2024