

## **ADMINISTRATIVE PANEL DECISION**

Lincoln Global, Inc., The Lincoln Electric Company v. Joseph Durias  
Case No. D2024-5350

### **1. The Parties**

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

Respondent is Joseph Durias, United States.

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

The disputed domain name <lincolnelerctric.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 31, 2024. On January 2, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 7, 2025, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant, and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on January 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 27, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 29, 2025.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on January 31, 2025. 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**

Complainants collectively known as “Lincoln Electric” are sister companies owned by Lincoln Electric Holdings Inc (hereinafter collectively referred to as the “Complainant”). For over a century prior to the registration of the disputed domain name, Complainant has offered welding and related products and services under the LINCOLN ELECTRIC mark. Complainant has several registered trademarks for its LINCOLN ELECTRIC mark around the globe. These include, among others, United States Registration Nos. 2350082 (registered May 16, 2000) and 2420805 (registered January 16, 2001).

Complainant also owns the registration for the domain name <lincolnelectric.com> (registered February 24, 1996), which Complainant uses to communicate with consumers regarding its welding and related products and services.

The disputed domain name was registered on October 30, 2024. As of the filing of the Complaint, the disputed domain name did not resolve to an active website. Respondent did not reply to cease and desist letters from Complainant regarding Respondent’s registration and use of the disputed domain name.

#### **5. Parties’ Contentions**

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

Complainant contends that the (i) disputed domain name is identical or confusingly similar to Complainant’s trademarks; (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

In particular, Complainant contends that it has established rights in its LINCOLN ELECTRIC mark which is “known internationally” as Complainant has a “leading global position” in the industry sector, with international distribution and a presence in numerous countries with over a century of use. Complainant contends that Respondent has merely added a single letter “r” to Complainant’s well-known LINCOLN ELECTRIC mark, in a classic case of “typosquatting”.

Complainant asserts that Respondent has no rights or legitimate interests in the registration or use of the disputed domain name. Complainant contends that Respondent did not reply to multiple attempts by Complainant to contact Respondent, and demanding that Respondent cease and desist use of the disputed domain name. Complainant further contends that, without regard to having a passive website, Respondent has acted in bad faith via registration and use of the disputed domain name, presumably for Respondent’s own commercial gain.

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

Respondent did not reply to 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 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. Complainant has shown rights in respect of a trademark or service mark, LINCOLN ELECTRIC, for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Although the addition of a letter "r" may bear on assessment of the second and third elements, the Panel finds that this misspelling by Respondent does not prevent a finding of confusing similarity between the disputed domain name and Complainant's mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.9.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which 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.

Complainant has established rights to the mark recognizable in the disputed domain name, and Respondent has not responded with any valid claim to use those terms. The Panel finds that Complainant has provided prima facie evidence of Respondent's lack of "rights or legitimate interests" in accordance with paragraph 4(a)(ii) of the Policy which Respondent has not rebutted.

Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

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

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. As noted in Section 4 of this Panel's decision, as of the filing of the Complaint, the disputed domain name does not currently resolve to an active website. It is well established that even having a passive website does not necessarily prevent a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3, which notes that the "non-use of a domain name" does not necessarily negate a finding of bad faith.

Rather, a panel must examine "the totality of the circumstances", including, for example, whether a complainant has a well-known trademark, and whether a respondent conceals his/her identity and/or replies to the complaint. Respondent did not respond to Complainant's allegations in this proceeding, nor to Complainant's previous cease and desist letters. Complainant has established prior rights in the LINCOLN ELECTRIC mark, as well as long-term and global reach of its registered mark. Taking into consideration that the disputed domain name is a

typo version of Complainant's domain name <lincolnelectric.com>, the Panel finds that Respondent knew or should have known of Complainant's mark when registering the disputed domain name. Respondent thus appears to be trading on the goodwill of Complainant's trademark. Non-use of the disputed domain name does not prevent a finding of bad faith under the circumstances of this case.

The Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy.

## **7. Decision**

For all 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 <lincolnelectric.com> be transferred to Complainant.

*/Lorelei Ritchie/*

**Lorelei Ritchie**

Sole Panelist

Dated: February 12, 2025