

## **ADMINISTRATIVE PANEL DECISION**

Chocoladefabriken Lindt & Sprüngli AG v. Susan Smith, SUSAN SMITH  
Case No. DCO2025-0011

### **1. The Parties**

The Complainant is Chocoladefabriken Lindt & Sprüngli AG, Switzerland, represented by SILKA AB, Sweden.

The Respondent is Susan Smith, SUSAN SMITH, United States of America ("United States").

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

The disputed domain name <lilndt.co> is registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 3, 2025. On February 4, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 4, 2025, 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 ("Redacted for Privacy / Privacy service provided by Withheld for Privacy ehf") and contact information in the Complaint. The Center sent an email communication to the Complainant on February 5, 2025, 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 February 6, 2025.

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 February 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 10, 2025.

The Center appointed Mihaela Maravela as the sole panelist in this matter on March 17, 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**

According to information in the Complaint, the Complainant was founded in 1845, and is a well-known chocolate maker based in Switzerland. The Complainant is a leader in the market of premium quality chocolate, it has 11 production sites in Europe and the United States, and its more than 2,500 products are distributed via 28 subsidiaries, 500 own retail shops and a comprehensive network of more than 100 distributors in over 120 countries. The Complainant has more than 14,000 employees and made a revenue of CHF 5.2 billion in 2023.

The Complainant is the owner of various registered trademarks for LINDT, including the United States trademark no. 87306 registered on July 9, 1912, covering goods in class 30, and the International trademark no. 622189 registered on July 12, 1994, covering goods in class 30. The Complainant is using the domain name <lindt.com> and numerous other domain names that include LINDT to advertise the Complainant's offerings across a wide range of territories around the world.

The disputed domain name was registered on December 4, 2024, and does not resolve to an active website. According to evidence with the Complaint, it was used for a phishing email scheme impersonating the Complainant's subsidiary.

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

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends with respect to the first element that the disputed domain name comprises a misspelt form of the LINDT mark, as an "l" has been inserted after the "i" and before the "n". Through a side-by-side comparison, the LINDT mark remains clearly recognizable in the disputed domain name.

As regards the second element, the Complainant argues that the Respondent does not have trademark rights for, nor is it commonly known by, "lilndt" or any similar term. The Respondent is not connected to nor affiliated with the Complainant and has not received license or consent to use the LINDT mark in any way. Moreover, the Respondent has not used, nor prepared to use, the disputed domain name in connection with a bona fide offering of goods or services, nor a legitimate noncommercial or fair use. The disputed domain name has been used to engage in an email phishing scheme by sending multiple emails from [...]@lilndt.co to pass off as an accounting specialist of one of the Complainant's subsidiaries; this has resulted in at least one recipient customer diverting payments amounting to more than EUR 90,000 to a bank account presumably controlled by the Respondent.

With respect to the third element, the Complainant argues that it has accrued substantial goodwill and recognition in the LINDT brand, which was first registered as a trademark more than a century ago. The Complainant has some 500 retail stores and a comprehensive network of more than 100 distributors in over 120 countries. Moreover, the Respondent's choice of a domain name consisting of a typosquatting version of the LINDT mark, clearly reflects its knowledge of, and intention to target, the Complainant. Moreover, the Complainant submits that the Respondent has used the disputed domain name to engage in an email phishing scheme, attempting to divert (and succeeding in doing so) payments from a customer of the

Complainant to an account which the Respondent presumably controls, by passing off as an authorised accounts receivable department of the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.2.

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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**

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 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the Complainant's mark is recognizable within the disputed domain name which consists of the obvious misspelling of the LINDT trademark of the Complainant, with the addition of a letter "l" after the first two letters. This misspelling in the disputed domain name, also referred to as typosquatting, does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.9). Accordingly, the disputed domain name is confusingly similar to the Complainant's mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

In addition, the Panel finds that the addition of the country-code Top-Level Domain ("ccTLD") ".co" to the disputed domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.

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 the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The 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.

There is no evidence that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. Rather, according to the unrebutted evidence put forward by the Complainant, the Respondent apparently used the disputed domain name in connection with an email phishing scheme to obtain illegal payments from the Complainant's customers. Such activity cannot amount to a fair use of the disputed domain name by the Respondent. Panels have held that the use of a domain name for illegal activity (here, claimed phishing, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

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

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

According to the unrebutted assertions of the Complainant, its LINDT trademarks were registered well before the registration of the disputed domain name in December 2024 and is renowned. The disputed domain name is a typosquatted version of the Complainant's trademarks and the disputed domain name was used for sending emails impersonating the Complainant. Under these circumstances, it is clear that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain name and targeted it. The Respondent provided no explanations for why it registered the disputed domain name.

As regards the use, the Complainant submits that the Respondent used the disputed domain name in a fraudulent phishing scheme which has resulted in at least one recipient customer diverting payments amounting to more than EUR 90,000 to a bank account presumably controlled by the Respondent. The evidence put forward by the Complainant in this respect has not been rebutted by the Respondent. The use of a domain name for illegal activity is considered evidence of bad faith under the Policy (see sections 3.1.4 and 3.4 of the [WIPO Overview 3.0](#)).

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the 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 <lilndt.co> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: March 27, 2025