

ADMINISTRATIVE PANEL DECISION

Linx Sistemas e Consultoria Ltda. v. NameSilo, LLC, Tucows Inc., Elliot Carey, Host Master, 1337 Services LLC
Case No. D2023-4538

1. The Parties

The Complainant is Linx Sistemas e Consultoria Ltda., Brazil, represented by Opice Blum, Brazil.

The Respondent is NameSilo, LLC, Tucows Inc., Elliot Carey, Host Master, 1337 Services LLC, United Kingdom.

2. The Domain Names and Registrars

The disputed domain names <linxleaks.com> and <linxleaks.dev> are registered with NameSilo, LLC Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 1, 2023. On November 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 2, 2023, the Registrars transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (NameSilo, LLC and Tucows Inc.) and contact information in the Complaint.

The Center sent an email communication to the Complainant on November 2, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on November 6, 2023.

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 the Respondent of the Complaint, and the proceedings commenced on November 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 29, 2023. The Respondent sent email communications to the Center on November 6 and 12, 2023.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on December 5, 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 is a software management company founded in 1985 in Sao Paulo, Brazil.

The Complainant is the owner of the trademarks LINX and LINX SISTEMAS registered in classes 9, 35, 36, 37, 38, 39, 41, and 42, covering services related to financial, monetary, banking services, and technology. The trademarks have been registered with the Brazilian National Institute of Industrial Property and the earliest registration dates to August 29, 2006.

The Complainant's official website is located at "linx.com.br".

The disputed domain names were registered on September 30, 2023, and October 17, 2023, respectively. Both disputed domain names contained a notice informing users of certain alleged vulnerabilities on the computer systems of the Complainant. The disputed domain names resolved to websites with the following content: "You pay AWS alone 34K USD per month and you cannot afford to pay us? We believe one way or another someone will exploit it and make it public. But you have still have the chance negotiate and finish this".

Currently the disputed domain names do not resolve to an active page.

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 names.

Notably, the Complainant contends that:

- the disputed domain names are confusingly similar to its trademarks;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names;
- the Respondent has registered and is using the disputed domain names in bad faith.

B. Respondent

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

On November 6, 2023, from a "BtHoster Sales" email address, the named Respondent sent an email communication to the Center claiming that it did not register the disputed domain names, that somebody else might have registered them using his name, and requesting the cancellation of such. On November 12, 2023, the Respondent sent another communication claiming that it did not own or have access to the disputed domain names.

6. Discussion and Findings

6.1. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the disputed domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that:

- both disputed domain names contained the same content related to an alleged vulnerability of the Complainant's website according to Annex 6 and Annex 6.1 of the Complaint.
- both disputed domain names use the Complainant's trademark with the addition of the term "leaks".
- the disputed domain names were registered within a short period of time, between September 30, 2023, and October 2023.

Therefore, and without any substantive argument from the Respondent(s) otherwise, the Panel accepts that the disputed domain names are under common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

6.2 Substantive Issues

Paragraph 4(a) of the Policy lists three elements, which a complainant must satisfy in order to succeed. The Complainant must satisfy that:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 the entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the term “leaks” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 names. 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 names such as those enumerated in the Policy or otherwise.

The disputed domain names consist of the Complainant’s trademark plus an additional term “leaks” that shows that the Respondent has targeted the Complainant to promote content resulting presumably from illegitimate activities. In this regard, the Panel finds that the Respondent selected such composition for the disputed domain names to take unfair advantage of the similarity with the Complainant’s trademark.

The Respondent’s bad faith intention is exacerbated by the alleged threat of disclosing a vulnerability of the computer systems of the Complainant. As further elucidated below and pursuant to section 2.15 of the [WIPO Overview 3.0](#), the use of the disputed domain names is abusive of the Complainant’s trademark rights.

Panels have held that the use of a domain name for activity such as the present threat to the Complainant to “negotiate and finish this”, would not confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, 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. See also [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that:

- Some of the Complainant trademark registrations dates from the year 2006.
- The disputed domain names were registered on September and October 2023.
- The Respondent registered two domain names including Complainant's trademarks with the addition of the term "leaks" and included content in both disputed domain names related to the alleged vulnerability of the computer systems of the Complainant.
- The Respondent's bad faith intention is exacerbated by a threat of disclosing certain information if the Complainant did not "negotiate" with the Respondent.

Panels have held that the use of a domain name for such extortionate activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names 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 names <linxleaks.com> and <linxleaks.dev> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: December 19, 2023