Decision for dispute CAC-UDRP-102502

Case number	CAC-UDRP-102502
Time of filing	2019-05-23 10:30:42
Domain names	schneider-elecrtric.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	SCHNEIDER ELECTRIC

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	lupnin

OTHER LEGAL PROCEEDINGS

The panel is not aware of any pending or decided proceedings which relate to the Domain Name.

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks including the terms “SCHNEIDER ELECTRIC”, such as
- The international trademark SCHNEIDER ELECTRIC® n° 715395 registered since 1999-03-15;
- The international trademark SCHNEIDER S ELECTRIC® n° 715396 registered since 1999-03-15;
- The European trademark SCHNEIDER ELECTRIC® n° 1103803 registered since 1999-03-12.

The Complainant is also the owner of many domain names which include the trademark SCHNEIDER ELECTRIC® such as <schneider-electric.com> registered and used since 1997-10-02

FACTUAL BACKGROUND

The Complainant, which was founded in 1871, is a French industrial business trading internationally. It manufactures and offers products for power management, automation, and related solutions. The Complainant's corporate website can be found at www.schneider-electric.com.

The Complainant is featured on the NYSE Euronext and the French CAC 40 stock market index. In 2018, the Complainant revenues amounted to 25.7 billion euros

The disputed domain name <schneider-elecrtric.com> was registered on March 12th, 2019 and is inactive.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to its trademarks SCHNEIDER ELECTRIC®. Indeed, the disputed domain name incorporates the trademark SCHNEIDER ELECTRIC® in its entirety.

This is a clear case of "typosquatting", i.e. the disputed domain name obviously contains the Complainant's trademark, with the mere addition of the letter "R" and a dash: SCHNEIDER-ELECRTRIC instead of SCHNEIDER ELECTRIC®.

Previous Panel have concluded that the addition of a letter and of the generic top-level domain ".COM" is insufficient to distinguish the domain name from the mark.

Please see for instance FORUM Case No. 1806976, Boehringer Ingelheim Pharma GmbH & Co.KG v. michael mcgavin ("Complainant next argues that Respondent's <boehringer-ingelheiim.us> domain name is identical or confusingly similar to Complainant's mark as it adds the letter "I," a dash, and the ccTLD to Complainant's mark. Similar changes in a registered mark have failed to sufficiently distinguish a domain name for a mark for the purposes of Policy paragraph 4(a)(i). […] The Panel therefore finds that the <boehringer-ingelheiim.us> domain name is confusingly similar to the BOEHRINGER INGELHEIM mark under Policy paragraph 4(a)(i).")

Besides, it is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP". Please see WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin.

Finally, past Panels have confirmed the Complainant's rights over the terms "SCHNEIDER ELECTRIC". Please see for instance WIPO Case No. Case No. DIR2017-0004, Schneider Electric v. Bijan babanejad <schneider-electric.ir>

Consequently, the Complainant contends that the domain name <schneider-elecrtric.com> is confusingly similar to its trademarks SCHNEIDER ELECTRIC®.

The Respondent does not have any rights or legitimate interest in the domain name(s)

According to the WIPO Case No. D2003-0455, Croatia Airlines d. d. v. Modern Empire Internet Ltd., the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name, but as "lupnin". Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name.

Please see for instance FORUM Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy paragraph 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii).")

The Complainant contends that the Respondent is not affiliated with nor authorized by SCHNEIDER ELECTRIC in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark SCHNEIDER ELECTRIC®, or apply for registration of the disputed domain name by the Complainant.

The Complainant also claims that the disputed domain name is a typosquatted version of the trademark SCHNEIDER ELECTRIC®. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name. Please see:
- FORUM Case No. 1765498, Spotify AB v. The LINE The Line / The Line ("Complainant contends the <spotfy.com> domain name differs from the SPOTIFY mark only by the omission of the letter "i" in the mark, and is thus a classic case of typosquatting. […] The Panel finds that Respondent's registration of the domain name is typosquatting and indicates it lacks rights and legitimate interests in the domain name per Policy paragraph 4(a)(ii).").
- FORUM Case No. 1597465, The Hackett Group, Inc. v. Brian Herns / The Hackett Group ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy paragraph 4(a)(ii).").

Furthermore, the disputed domain name is inactive. Therefore, the Complainant contends that Respondent did not make any use of disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

Please see for instance:
- WIPO Case No. D2000-1164, Boeing Co. v. Bressi ("the Respondent has advanced no basis on which he could conclude that it has a right or legitimate interest in the domain names");
- FORUM Case No. FA 1773444, Ashley Furniture Industries, Inc. v. Joannet Macket / JM Consultants ("The Panel finds that Respondent's lack of content at the disputed domain shows the lack of a bona fide offering of goods or services or a legitimate noncommercial or fair use per Policy paragraphs 4(c)(i) and (iii).").

Thus, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name <schneider-elecrtric.com>.

The domain name(s) has been registered and is being used in bad faith

The disputed domain name <schneider-elecrtric.com> is confusingly similar to the Complainant trademark SCHNEIDER ELECTRIC® registered since 1999-03-15. Moreover, the Complainant is widely known around the world and the expression "SCHNEIDER ELECTRIC" has no other meaning, except in relation with the Complainant.

Thus, the Panel should find that Respondent likely targeted Complainant and its trademark SCHNEIDER ELECTRIC® when registering the Domain Name.

Moreover, the Complainant states that the disputed domain name <schneider-elecrtric.com> is confusingly similar to its trademark and branded goods SCHNEIDER ELECTRIC®. Indeed, the addition of the letter "R" and a dash is not sufficient to escape the finding that the domain name is confusingly similar to the trademark SCHNEIDER ELECTRIC®. The Complainant states that this misspelling was intentionally designed to be confusingly similar with the Complainant's trademarks. Previous UDRP Panels have seen such actions as evidence of bad faith.

Please see FORUM Case No. 157321, Computerized Sec. Sys., Inc. v. Bennie Hu ("The Panel finds that Respondent's registration and use of a domain name that differs from Complainant's mark by only one letter indicates "typosquatting", which is evidence of bad faith registration and use.")

Furthermore, the disputed domain name is inactive. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

Please see for instance:
- WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows;
- WIPO Case No. D2000-0400, CBS Broadcasting, Inc. v. Dennis Toeppen.

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The disputed domain name registered in 2019 is confusingly similar to the Complainant's trade mark (registered, inter alia, in the EU for power management related goods or services since 1999) containing it in its entirety adding only a hyphen, an extra letter 'r' and the gTLD .com which do not prevent this confusing similarity. It appears to be a typosquatting registration.

The Respondent is not commonly known by the disputed domain name, has not been authorised by the Complainant and has made no bona fide offering of goods or services through or non commercial legitimate or fair use of the disputed domain name. Typosquatting is an indication of lack or rights or legitimate interests in the disputed domain name. The Respondent has no right or legitimate interests in the disputed domain name.

Typosquatting is an indication of bad faith registration and use per se. The Panel finds the disputed domain name was registered and used in bad faith under the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **SCHNEIDER-ELECRTRIC.COM**: Transferred

PANELLISTS

Name	**Dawn Osborne**

DATE OF PANEL DECISION 2019-06-26

Publish the Decision