Decision for dispute CAC-UDRP-103137

Case number	CAC-UDRP-103137
Time of filing	2020-06-25 09:07:35
Domain names	schnieder-eletcric.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	SCHNEIDER ELECTRIC

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Western Supply

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that are pending or decided and that relate to the Disputed Domain Name.

IDENTIFICATION OF RIGHTS

Complainant states, and provides evidence to support, that it is the owner of multiple registrations for the trademark SCHNEIDER ELECTRIC, including Int'l Reg. Nos. 715,395 (registered March 15, 1999) and 715,396 (registered March 15, 1999); and EU Reg. No. 1,103,803 (registered March 12, 1999). These registrations are referred to herein as the "SCHNEIDER ELECTRIC Trademark."

FACTUAL BACKGROUND

Complainant states that it was founded in 1871; that it is "a French industrial business trading internationally"; that it "manufactures and offers products for power management, automation, and related solutions"; that it "is featured on the NYSE Euronext and the French CAC 40 stock market index"; and that its "revenues amounted to 25.7 billion euros" in 2018.

Complainant is the registrant of and uses the domain name <schneider-electric.com> (created October 10, 1997).

Paragraph 4(a)(i): Complainant states, inter alia, that the Disputed Domain Name is confusingly similar to the SCHNEIDER ELECTRIC Trademark because "[t]he misspelling in the disputed domain name is a clear case of 'typosquatting'."

Paragraph 4(a)(ii): Complainant states that Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, “Respondent is not identified in the Whois database as the disputed domain name”; “Respondent is not affiliated with nor authorized by SCHNEIDER ELECTRIC in any way”; “[n]either 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 disputed domain name is a typosquatted version of the trademark SCHNEIDER ELECTRIC®”; and because “the disputed domain name is inactive… 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.”

Paragraph 4(a)(iii): Complainant states that the Disputed Domain Name was registered and is being used in bad faith because, inter alia, the Disputed Domain Names is confusingly similar to the SCHNEIDER ELECTRIC Trademark, which “is widely known around the world”; and “Respondent has been engaged in a fraudulent phishing scheme to render false invoices to the Complainant,” as shown by an e-mail provided by Complainant using an email address containing the Disputed Domain Name, asking a recipient “to make payment directly to our bank via ACH/Wire.”

PARTIES CONTENTIONS

No administratively compliant response has been filed.

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 Policy were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Identical or Confusingly Similar: Paragraph 4(a)(i):

Based upon the trademark registration cited by Complainant, it is apparent that Complainant has rights in and to the SCHNEIDER ELECTRIC Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the SCHNEIDER ELECTRIC Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Names only (i.e., “schnieder-eletcric”) because “[t]he 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.” WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 1.11.1.

As set forth in section 1.7 of WIPO Overview 3.0, “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.” Further, as set forth in section 1.9 of WIPO Overview 3.0: “A domain name which consists of a common, obvious,

or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element." The same section states that "the inversion of letters and numbers" is an example of typosquatting that renders a disputed domain name confusingly similar to a trademark.

In addition, as numerous previous decisions under the Policy have made clear, the inclusion of a hyphen in a disputed domain name is irrelevant for purposes of the Policy, because the presence or absence of "punctuation marks such as hyphens cannot on their own avoid a finding of confusing similarity." Six Continents Hotels, Inc. v. Helen Siew, WIPO Case No. D2004-0656.

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

Rights or Legitimate Interests: Paragraph 4(a)(ii)

Complainant states, inter alia, that Respondent is not identified in the Whois database as the disputed domain name"; "Respondent is not affiliated with nor authorized by SCHNEIDER ELECTRIC in any way"; "[n]either 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 disputed domain name is a typosquatted version of the trademark SCHNEIDER ELECTRIC®"; and because "the disputed domain name is inactive… 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."

WIPO Overview 3.0, section 2.1, states: "While the overall burden of proof in Policy 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The Panel finds that Complainant has established its prima facie case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the Policy.

Registered and Used in Bad Faith: Paragraph 4(a)(iii)

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 paragraph 4(b) of the Policy: (i) circumstances indicating that the registrant has registered or the registrant has 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.

As set forth above, Complainant states, and provides evidence to support, that "Respondent has been engaged in a fraudulent phishing scheme to render false invoices to the Complainant," including by using an e-mail address containing the Disputed Domain Name, asking a recipient "to make payment directly to our bank via ACH/Wire." This clearly creates a "likelihood of confusion" leading to bad faith under paragraph 4(b)(iv) of the Policy. Further, "fraudulently impersonating" a complainant has often been found to constitute bad faith. See, e.g., The Dow Chemical Company v. dowaychemical

eva_hwang@21cn.com +86.7508126859, WIPO Case No. D2008-1078. And, sending emails that appear to be from Complainant under the facts of this case is a type of “phishing” that is “manifestly considered evidence of bad faith.” WIPO Overview 3.0, section 3.1.4.

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SCHNIEDER-ELETCRIC.COM**: Transferred

PANELLISTS

Name	**Douglas M. Isenberg**

DATE OF PANEL DECISION 2020-07-21

Publish the Decision