

Decision for dispute CAC-UDRP-103894

Case number	CAC-UDRP-103894
Time of filing	2021-06-30 09:06:50
Domain names	schneider-electriccn.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	SCHNEIDER ELECTRIC SE
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Complainant representative

Organization	Nameshield (Laurent Becker)
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Respondent

Name	Dong Sheng Huang
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

EU TM Registration No. 001103803 Schneider Electric registered on 9 September 2005 in relation to various goods and services in classes 6, 9, 11, 36, 37, 39 and 42.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant operates an international business under the trade mark "Schneider Electric" that manufacturers and offers products for power management, automation and related solutions. It employs over 135,000 staff worldwide and its revenue in the year 2019 was 27.6 billion euros.

The Complainant owns a number of trade marks containing or consisting of the words "Schneider Electric", including EU TM Registration No. 001103803 Schneider Electric registered on 9 September 2005 in relation to various goods and services in classes 6, 9, 11, 36, 37, 39 and 42. It also owns a number of domain names containing the words "Schneider Electric", such as <schneider-electric.com> which was first registered in 1997 and directs to its corporate website. It also operates a

website at <<https://www.se.com>>.

The disputed domain name was registered on 25 April 2021. It redirects to Complainant's website and the Complainant did not give permission for this redirection. The disputed domain name has been set up with MX records (mail exchange records) which suggests it may be actively used for email purposes.

The Respondent is Dong Sheng Huang. The Respondent lists its address as Beijing, China.

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

PRINCIPAL REASONS FOR THE DECISION

Paragraph (4)(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name registered by the Respondent be transferred to the Complainant:

- 1) the disputed domain name is identical or confusingly similar to a trademark or service mark ("mark") in which the Complainant has rights; and
- 2) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- 3) the disputed domain name has been registered and is being used in bad faith.

The Panel is satisfied that the Complainant has satisfied all three elements for the principal reasons set out below.

RIGHTS IN AN IDENTICAL OR CONFUSINGLY SIMILAR TRADEMARK

The Complainant asserts it has a trademark registration consisting of the words "Schneider Electric" in the European Union. This registration predates the registration date of the disputed domain name by over a decade.

To satisfy paragraph 4(a)(i) of the Policy it is enough that the Panel is satisfied that the Complainant has registered rights in a trademark that predates the registration of the disputed domain name in a single jurisdiction (even if that single jurisdiction is not one in which the Respondent resides or operates) (Koninklijke KPN N.V. v. Telepathy, Inc D2001-0217

(WIPO May 7, 2001); see also WIPO Case Nos. D2012-0141 and D2011-1436). The Complainant has clearly satisfied such in relation to the trademark "Schneider Electric".

The next question is whether the disputed domain name is confusingly similar to the "Schneider Electric" trademark.

The Panel disregards the gTLD suffix ".com" for the purpose of this comparison. And it also ignores the hyphen appearing between "schneider" and "electric", which merely performs the function of spacing the two separate elements of the trade mark.

Finally, the Panel turns to the addition of "cn" after "schneider-electric" in the disputed domain name. The Complainant's representative, Laurent Becker, asserts that the "cn" element indicates the two-letter country code for China. It is well-known that "cn" is the latin character chinese country code top level domain. Mr Becker further asserts that as a "mere geographical element" the "cn" element "is unable to dispel the confusing similarity between the disputed domain name and the trademark". He cites Incase Designs Corp. v. Zhou Bing Cun, Shen Zhen Shi A Rui Si Jing Mao You Xian Gong Si (WIPO Case No. D2019-0700) in support, which concerned the use of the element "-china" in a domain name.

Given the position of the "cn" element directly before the ".com" gTLD the Panel accepts Mr Becker's arguments. The final elements of the disputed domain name are "cn.com" which are likely to be confused for the well-known ccTLD ".com.cn". And given the striking similarities between the disputed domain name and the "Schneider Electric" trademark as a whole the disputed domain is confusingly similar.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent's name according to information provided by the registrar for the disputed domain name is "Dong Sheng Huang". This name bears no resemblance to "schneider-electriccn". Further, the fact that the disputed domain name is directed to the Complainant's website without authority only further indicates the Respondent lacks any right or legitimate interest in the disputed domain name.

The Respondent has no rights or interests in the disputed domain name.

BAD FAITH

The Respondents conduct as a whole is of concern to the Panel.

Whilst it may be readily observed that the redirection of the disputed domain name in isolation will not result in disruption of business to the Complainant (as it merely directs its customers to the correct website that they are likely looking for) it shows the Respondent has full knowledge of the Complainant's rights in the "Schneider Electric" trademark.

In receipt of such knowledge the Respondent has proceeded to set up MX records for the disputed domain name. Such an action can only have one purpose and that is to facilitate the use of the domain name as part of email addresses. It may be observed that, as in JCDECAUX SA v. Handi Hariyono (CAC Case No. 102827), it is inconceivable that the Respondent will be able to make good faith use of the disputed domain name for emailing. However, the Panel actually concludes one step further than this. Namely, on the present facts the only explicable reason for the Respondents conduct as a whole is that it sought to use the domain name for a fraudulent purpose. Namely, to send emails pretending to be the Complainant. If the recipients of such emails entered the disputed domain name in a web browser they would see the Complainant's legitimate website, which would only heighten confusion and encourage replies to the emails.

It is clear that the Respondent has registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. SCHNEIDER-ELECTRICCN.COM: Transferred

PANELLISTS

Name Mr Andrew Norman Sykes

DATE OF PANEL DECISION 2021-07-28

Publish the Decision
