

Decision for dispute CAC-UDRP-104170

Case number CAC-UDRP-104170

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Domain names myschnieder.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization SCHNEIDER ELECTRIC SE

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization Fundacion Privacy Services LTD

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

- The international trademark SCHNEIDER® n° 461453 registered since 1981-05-13;
 - The international trademark SCHNEIDER® n° 574108 registered since 1991-07-31;
 - The international trademark SCHNEIDER ELECTRIC® n° 715395 registered since 1999-03-15.
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FACTUAL BACKGROUND

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

Founded in 1871, the Complainant is a French industrial business trading internationally. It manufactures and offers products for power management, automation, and related solutions. Its corporate website is at "www.schneider-electric.com".

The Complainant owns several trademarks including international trademark SCHNEIDER n° 461453 registered since 1981-05-13.

The Complainant is also the owner of <myschneider.com> domain name, registered since 2004-03-26.

The disputed domain name <myschnieder.com> was registered on November 8, 2021. It resolves to a parking page with commercial links.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant submits that the disputed domain name <myschnieder.com> is confusingly similar to the Complainant's SCHNEIDER trademark and the Respondent does not have any rights or legitimate interest in the disputed domain name, which was registered and is being used in bad faith.

As to legitimacy, the Complainant says the Respondent is not identified in the Whois database as the disputed domain name; the Respondent is not affiliated with nor authorized by the Complainant in any way; the Complainant does not carry out any activity for, nor has any business with the Respondent; neither licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademarks or apply for registration of the disputed domain name, which resolves to a parking page with commercial links. This does not constitute a bona fide offering of goods or services nor a legitimate non-commercial or fair use.

As to bad faith, the Complainant contends that the Respondent had knowledge of the Complainant's rights prior to the registration of the disputed domain name, which resolves to a parking page with commercial links. Hence the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant's trademarks.

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 Complainant has shown that it has rights in the SCHNEIDER mark through numerous registrations, including international registration n° 461453 registered on May 13, 1981. The Panel finds the disputed domain name <myschnieder.com> to be confusingly similar to the Complainant's trademark SCHNEIDER, the inversion of the letters "E" and "I" being insufficient to distinguish the disputed domain name from the mark. The inconsequential gTLD ".com" may be ignored.

Paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by Respondent, shall demonstrate rights to or legitimate interests in the domain name for purposes of paragraph 4(a)(ii) of the Policy, i.e.

(i) before any notice to Respondent of the dispute, the use by Respondent of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) Respondent (as an individual, business or other organization) has been commonly known by the domain name, even if Respondent has acquired no trademark or service mark rights; or

(iii) Respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The disputed domain name <myschnieder.com> was registered on November 8, 2021, many years after the Complainant has shown that its SCHNEIDER mark had become very well-known. It resolves to a parking page with commercial links.

These circumstances, together with the Complainant's assertions, are sufficient to constitute a prima facie showing of absence of rights or legitimate interests in respect of the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the disputed domain name. See WIPO Case No. D2003-0455, Croatia Airlines d. d. v. Modern Empire Internet Ltd. The Respondent has made no attempt to do so. The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which, though not exclusive, shall be evidence of the registration and use of the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy, including: (iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on its website or location.

The circumstances set out above in relation to the second element satisfy the Panel that the Respondent was fully aware of the Complainant's very well-known SCHNEIDER mark when the Respondent registered the disputed domain name and that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source of the Respondent's website and of the goods or services promoted on that website. This demonstrates registration and use in bad faith to attract users for commercial gain under Policy 4(b)(iv).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. MYSCHNIEDER.COM: Transferred

PANELLISTS

Name	Mr. Alan Lawrence Limbury
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DATE OF PANEL DECISION 2021-12-22

Publish the Decision
