Decision for dispute CAC-UDRP-100911

Case number	CAC-UDRP-100911
Time of filing	2015-01-14 11:19:13
Domain names	schneider-electrica.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Schneider Electric SA

Complainant representative

Organization	Nameshield (Anne Morin)

Respondent

Organization	Shubin Aleksej

OTHER LEGAL PROCEEDINGS

No legal proceedings exist.

IDENTIFICATION OF RIGHTS

-

FACTUAL BACKGROUND

The Complainant is well known French industrial group with an international dimension, which manufactures and offers products of power management, automation and solutions for these businesses. The Complainant is established in numerous countries all around the world, and notably in the Ukraine. The Complainant submitted evidence it owns several trademarks including the distinctive wording SCHNEIDER ELECTRIC®. The Complainant is also the owner of many Internet domain names, including the same wording SCHNEIDER ELECTRIC®
It was discovered by the Complainant (and confirmed by the Registrar) that the Respondent registered domain name “schneider-electrica.com " (hereinafter “the disputed domain name”) on August 26, 2014.
The Complainant feels that such registration is contrary to Paragraph 4 (a) and (b) of the Uniform Domain Name Dispute Resolution Policy (hereinafter "the Policy").

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

A) Complainant

The Complainant states that the domain name <schneider-electrica.com> is confusingly similar to its well-known and distinctive trademark SCHNEIDER ELECTRIC®.

The Complainant contends the addition of the letter "A", a dash "-" and the gTLD ".COM" is not sufficient to escape the finding that the domain is confusingly similar to the trademarks and it does not change the overall impression of the designation as being connected to the trademark SCHNEIDER ELECTRIC®. The addition of the letter "A" at the end of the word "ELECTRIC" is a clear case of "typosquatting".

It does not avoid the likelihood of confusion between the disputed domain name <schneider-electrica.com> and the Complainant, its trademark SCHNEIDER ELECTRIC®. and its domain names associated.
Moreover, the wording SCHNEIDER ELECTRIC® is only known in relation to the Complainant. It has no meaning whatsoever in English or in any other language.

So the disputed domain name is confusingly similar to the Complainant's trademarks and domain names.
Furthermore, as far as rights or legitimate interests of the Respondent in respect of the disputed domain name are concerned, the Complainant claims the Respondent does not have any rights or legitimate interests in the disputed domain name within the meaning of Paragraph 4(c) of the Policy. According to the website in relation with the domain name <schneider-electrica.com>, the Respondent pretends to be an official reseller of the trademark SCHNEIDER ELECTRIC® .

However, the Complainant states that the Respondent is not affiliated with him nor authorized by him in any way. The Respondent has no right nor legitimate interest in the disputed domain name and he is not related in any way to the business of the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Moreover, the Complainant contends that the Respondent has registered the disputed domain name with a view to intentionally create a likelihood of confusion with the Complainant's trademarks, corporate name and domain names as to the source, sponsorship, affiliation and/or endorsement on its website, in all likelihood, for its own commercial gain for the following reasons:
(i) the Respondent falsely asserts to be affiliated to the Complainant;
(ii) the Respondent displays the Complainant's logo and trademark SCHNEIDER ELECTRIC® without authorization;
(iii) the Respondent sells SCHNEIDER ELECTRIC products without authorization.
On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

A) Respondent

The Respondent did not respond to the Complainant at all even though he is obliged to do so.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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

All procedure requirements for administrative proceeding under UDRP were met.

PRINCIPAL REASONS FOR THE DECISION

1. The main issues under the UDRP are whether:

i. the disputed domain name is identical or confusingly similar to a domain name or a trademark or service mark in which the Complainant has rights; and
ii. the Respondent has no rights or legitimate interests with respect to the disputed domain name; and
iii. The disputed domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Panel also visited all available websites and public information concerning disputed domain name, namely the WHOIS database and related trademark register databases.

3. The Uniform Domain Names Dispute Resolution Policy in its Paragraph 4(b) defines what has to be understood as an evidence of the registration and use of the domain name in bad faith.

Namely Paragraph 4(b)(iv) of the Policy has to be considered in this case.

4. The panel therefore came to the following conclusions:

a) The Complainant has clearly proven that it is a long standing and successful company in industrial business and well known in the internet space, as well.

Disputed domain name to be identical or confusingly similar

b) It is also clear and proven by the spelling of the French language that there is a similarity between properly registered and used domain names and trademarks of the Complainant and the disputed domain name as to the misspelling/typosquatting; phonetic similarity, optical similarity; conceptual/intellectual similarity.

Respondent not having rights or legitimate interest with respect to the disputed domain name

c) It has to be stressed that it was proven by documents delivered by the Complainant and from the factual situation on the internet that there is no legitimate right or interest of the Respondent in the disputed domain name. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorised by the Complainant are sufficient to constitute a prima facie showing of absence of rights or legitimate interests in the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name.

The Respondent has made no attempt to do so. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Disputed domain name has been registered and is being used in bad faith

d) It was proven that the Respondent has registered the disputed domain name only after similar domain names of the Complainant has been registered and properly used for a long time in the business.

e) It is therefore clear that there is a high probability of a speculative behaviour of the Respondent.

f) From the IP law perspective it is clear that the similar domain names were used by the Complainant for a long time before the disputed domain name was registered and used by the Respondent.

g) Therefore it has to be concluded that the Respondent has registered/acquired the disputed domain name primarily for the purpose of his own benefit when disrupting the business of the Complainant and therefore the Respondent is using the disputed domain name in a bad faith. The disputed domain name shall be transferred to the Complainant without a delay.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Vít Horáček**

DATE OF PANEL DECISION 2015-02-23

Publish the Decision