

Decision for dispute CAC-UDRP-105683

Case number	CAC-UDRP-105683
Time of filing	2023-08-04 10:16:40
Domain names	schneiderelectric.com

Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	SCHNEIDER ELECTRIC SE
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Graham Burdis
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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

The Complainant, founded in 1871, is a French industrial business trading internationally. It manufactures and offers products for power management, automation, and related solutions.

The Complainant owns the following trademarks:

- International trademark SCHNEIDER ELECTRIC AND DESIGN, Reg. No. 715395, registered on March 15, 1999, and in force until March 15, 2029;
- International trademark SCHNEIDER S ELECTRIC AND DESIGN, Reg. No. 715396, registered on March 15, 1999, and in force until March 15, 2029;
- EUIPO trademark SCHNEIDER ELECTRIC AND DESIGN, Reg. No. 001103803 filed on March 12, 1999, registered on September 9, 2005, and in force until March 12, 2029.

FACTUAL BACKGROUND

The Complainant, founded in 1871, is a French industrial business trading internationally. It manufactures and offers products for power management, automation, and related solutions.

The Complainant is featured on the NYSE Euronext and the French CAC 40 stock market index. In 2022, the Complainant revenues amounted to 34.2 billion euros.

Besides the Complainant's Trademarks, the Complainant also owns the following domain names which incorporates SCHNEIDER ELECTRIC Trademark as <schneider-electric.com> registered since October 3, 1997, which displays Complainant's corporate website; and <schneiderelectric.com>, registered since April 4, 1996.

The disputed domain name <**schneiiderelectric.com**> was registered on February 16, 2023 and resolves to an inactive website.

PARTIES CONTENTIONS

Complainant Contentions:

- The Complainant contends that the disputed domain name <schneiiderelectric.com> is confusingly similar to its trademark SCHNEIDER ELECTRIC; that the addition of the letter "i" in the trademark constitutes an obvious misspelling of the Complainant's trademark SCHNEIDER ELECTRIC and is characteristic of a Typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name, citing *SCHNEIDER ELECTRIC SE v. michele Swanson*, CAC Case No. 103960, ("the obvious misspelling of the Complainant's trademark SCHNAIDER ELECTRIC instead of SCHNEIDER ELECTRIC is a clear evidence of "typosquatting".)
- The Complainant contends that the Respondent is not commonly known by the disputed domain name, due to the Respondent is not identified in the Whois database as the disputed domain name, citing *Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group*, Forum Case No. FA 1781783 ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy 4(c)(ii)."); that the Respondent is not affiliated with nor authorized by SCHNEIDER ELECTRIC in any way; that the Complainant does not carry out any activity for, nor has any business with the Respondent; that 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 Complainant also contends that the Respondent lacks any rights or legitimate interest in respect of the dispute domain name due to the disputed domain name is a typosquatted version of the trademark SCHNEIDER ELECTRIC; that Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can evidence that a respondent lacks rights and legitimate interests in the domain name, citing *The Hackett Group, Inc. v. Brian HERNs / The Hackett Group*, Forum Case No. 1597465 ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy 4(a)(ii).").
- The Complainant contends that the disputed domain name is currently inactive, that the Respondent did not use the disputed domain name, which confirms that Respondent has no demonstrable plan to use the disputed domain name, citing *Ashley Furniture Industries, Inc. v. Joannet Macket / JM Consultants*, ForumCase No. FA 1773444 ("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 4(c)(i) and (iii).").
- The Complainant contends that the disputed domain name <schneiiderelectric.com> is confusingly similar to the Complainant trademark SCHNEIDER ELECTRIC, citing *Schneider Electric S.A. v. Whois Privacy Protection Foundation / Sales department*, WIPO Case No. D2020-1403 ("The Complainant and its trademark are well-known worldwide. The Complainant has been established almost 150 years ago while the disputed domain name was only registered a couple of months ago. The Respondent must have been fully aware of the Complainant and its trademark when it registered the disputed domain name."); that such misspelling was intentionally designed to be confusingly similar with the Complainant's trademark SCHNEIDER ELECTRIC, evidencing Respondent's bad faith, citing *Microsoft Corporation v. Domain Registration Philippines*, Forum Case No. FA 877979, ("In addition, Respondent's misspelling of Complainant's MICROSOFT mark in the <microsoft.com> domain name indicates that Respondent is typosquatting, which is a further indication of bad faith registration and use pursuant to Policy 4(a)(iii).").
- The Complainant contends that given the distinctiveness of the Complainant's trademarks and reputation it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks.
- 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 disputed 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; that the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use, citing *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003 and *CBS Broadcasting, Inc. v. Dennis Toeppen*, WIPO Case No. D2000-0400.

Response

The Respondent did not reply to any of the Complainant's contentions.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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

In accordance with Paragraph 4(a) of the Policy, the onus is on the Complainant to prove:

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

The Panel will consider each of these requirements in turn.

Identical or Confusingly Similar

The Panel notes that the Trademarks submitted by the Complainant are composed by figurative elements as well, and that there are no disclaimers over the textual elements of the Trademarks, being SCHNEIDER ELECTRIC (*e.g.*: Reg. No. 715395), from which this Panel also that the Complainant has sufficiently proved of having Trademark Rights over the word SCHNEIDER ELECTRIC, since 1999.

According to Section 1.10 of the WIPO Overview 3.0: “Panel assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element.”

Since in this Case, the figurative elements of the Trademarks, are disregarded, the First UDRP Element analysis lays down over SCHNEIDER ELECTRIC v. <schneiiderelectric.com>.

The disputed domain name <**schneiiderelectric.com**> is the result of the exact incorporation of Complainant's Trademark SCHNEIDER ELECTRIC, with an additional vowel “i”, which as the Complainant states, it constitutes an obvious misspelling of the Complainant's Trademark SCHNEIDER ELECTRIC, characteristic of a Typosquatting practice by the Respondent, intended to create confusing similarity between the Complainant's Trademark and the disputed domain name (see *Schneider Electric SE v. michele Swanson*, CAC Case No. 103960; *Schneider Electric SE v. John Rezak*, CAC-UDRP Case No. 105498 and WIPO Overview 3.0 Section 1.9).

In relation to the gTLD “.com”, it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark, as it is a technical requirement of registration (see Section 1.11.1; of the WIPO Overview 3.0; *Schneider Electric SE v. Galib Gahramanov (G Domains)*, CAC-UDRP Case No. 105534).

Therefore, the disputed domain name <**schneiiderelectric.com**> is confusingly similar to Complainant's SCHNEIDER ELECTRIC Trademark.

Rights or Legitimate Interests

According to the submitted evidence, and considering the absence of any communication or administrative Response by the Respondent, this Panel determines that the Complainant has established its *prima facie* case in relation to the Second UDRP Element, due to:

- the Respondent registered the disputed domain name on February 16, 2023, meaning very well after the Complainant's acquired its Trademark Rights over SCHNEIDER ELECTRIC on 1999.
- the Respondent purposely selected a worldwide well-known trademark as SCHNEIDER ELECTRIC which has been registered in multiple jurisdictions, including in the United States, where the Respondent seems to be located, intentionally misspelled it, suggesting a false affiliation, confusing the users who seeks or expects to find the Complainant on the Internet.
- the Respondent is not associated or affiliated to the Complainant; the Complainant has not granted any rights to Respondent to use the SCHNEIDER ELECTRIC Trademark, whether a license to offer any product or service, or any rights to apply for registration of the disputed domain name by the Complainant.
- there is no evidence that the Respondent has become commonly known by the term "schneiiderelectric.com".
- there is no evidence showing that the Respondent has been using, or preparing to use, the disputed domain name in connection with a *bona fide* offering of goods and services or has made a legitimate noncommercial or fair use of the disputed domain name, in particular if the disputed domain name is the result of an act of typosquatting and it has been passively held by the Respondent (see *Schneider Electric SE v. James Waldrop*, CAC-UDRP Case No. 105409).

Therefore, this Panel concludes, that the Respondent has no rights or legitimate interests in respect of the disputed domain name <schneiiderelectric.com>.

Registered and Used in Bad Faith

Registration in Bad Faith:

The Complainant acquired its Trademark Rights over the word SCHNEIDER ELECTRIC in 1999 (e.g.: Reg. No. 715395). According to the evidence submitted before this Panel, the Complainant is a large and long-established international business, with a well-known Trademark as SCHNEIDER ELECTRIC with significant commercial activity, including on the Internet (*Schneider Electric SE v. Domain Admin (Hush Whois Protection Ltd.)*, CAC-UDRP Case No. 105533; *Schneider Electric SE v. John Rezak*, CAC-UDRP Case No. 105498; *Schneider Electric SE v. Domain Administrator*, CAC-UDRP Case No. 105535).

Section 3.2.1 of the WIPO Overview 3.0 related to additional bad faith consideration factors, has established that:

"Particular circumstances panels may take into account in assessing whether the respondent's registration of a domain name is in bad faith include: (i) **the nature of the domain name (e.g., a typo of a widely-known mark, or a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant's area of activity or natural zone of expansion)** (...) (vi) **a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name**, or (viii) other indicia generally suggesting that the respondent had somehow targeted the complainant." (emphasis added).

Section 3.2.2 of the WIPO Overview 3.0 related to the assessment of respondent's knowledge ("Knew or should have known"), has established that:

"Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark. (...)" (emphasis added).

Given that, the Complainant's submitted evidence, and in particular the act of typosquatting committed by the Respondent, shows to this Panel, that the Respondent was fully aware about Complainant's reputation and SCHNEIDER ELECTRIC Trademark's value at the moment of the registration of the disputed domain name, doing it with Complainant on mind.

Therefore, this Panel concludes that the disputed domain name was registered in bad faith.

Bad Faith Use:

In the present dispute, the disputed domain name has remained inactive. In relation to the Passive Holding Doctrine, among multiple UDRP Panel's Decisions, and in particularly, Section 3.3 of the WIPO Overview 3.0 states that:

"From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding.

While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include:

- (i) the degree of distinctiveness or reputation of the complainant's mark,
- (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use,
- (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and
- (iv) the implausibility of any good faith use to which the domain name may be put."

In the present dispute, the Complainant has proved that:

- (i) SCHNEIDER ELECTRIC is a widely-known Trademark, which enjoys distinctiveness and a strong reputation;
- (ii) the Respondent failed to submit any communication and/or a Response;
- (iii) the Respondent made use of a privacy service, which under the present circumstances, this Panel perceives it as a clear attempt of avoiding any notification or causing delay concerning a domain name's dispute;
- (iv) the disputed domain name has been passively held, resulting in an inactive website, allowing the Respondent to an unlimited use of the disputed domain name under any other possible illegitimate scenario, and with it, raising "the specter of continuing bad faith abuse by the Respondent of Complainant's trademark" (see *Comericaila Inc. v. Horoshiy, Inc.*, WIPO Case No. D2004-0615; *Schneider Electric SE v. (han jing xin)*, WIPO Case No. D2023-1543; *QatarEnergy v. Frea Johnson, administrator-qatarenergy, and Chairmoney King, qatarenergybid*, WIPO Case No. D2023-2809; *Schneider Electric SE v. conglomerates ships*, CAC-UDRP Case No. 105330 and *Schneider Electric SE v. Shashan K Jehangir (schneider)*, CAC-UDRP Case No. 105288).

Therefore, this Panel concludes that, the disputed domain name is being used in faith as well.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **schneiiderelectric.com**: Transferred

PANELLISTS

Name	María Alejandra López García
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DATE OF PANEL DECISION 2023-08-30

Publish the Decision
