Decision for dispute CAC-UDRP-106161

Case number	CAC-UDRP-106161
Time of filing	2024-01-15 13:28:59
Domain names	sneiders-electric.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	SCHNEIDER ELECTRIC SE

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	John Livens

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

Among others, the Complainant is owner of International Registered Trademark No. 715395 being a figurative mark consisting of the words SCHNEIDER ELECTRIC in stylized typeface, registered on March 15, 1999 in Classes 6, 9, 11, 36, 37, 39 and 42, designated in respect of multiple territories.

FACTUAL BACKGROUND

The Complainant is a French industrial business, trading internationally, which manufactures and offers products for power management, automation, and related solutions. It is featured on the NYSE Euronext and the French CAC 40 stock market indices, and reported revenues of EUR 34.2 billion in 2022.

In addition to the Complainant's SCHNEIDER ELECTRIC registered trademark, the Complainant owns a domain name portfolio containing domain names such as <schneiderelectric.com>, registered since April 4, 1996.

The disputed domain name was registered on November 8, 2023 and is currently inactive for web services. However, evidence has been produced demonstrating that it was used on November 9, 2023 in connection with a phishing scheme. On or about that date, an e-mail address was created at the disputed domain name which was used in order to impersonate an employee of the Complainant in an attempt to induce the recipient of an e-mail from the disputed domain name to make an improper payment.

PARTIES CONTENTIONS

Complainant:

The disputed domain name is confusingly similar to the Complainant's SCHNEIDER ELECTRIC trademark, subject to an obvious misspelling suppressing the letters "c" and "h" and adding the letter "s". This is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name. Previous panels have found that slight spelling variations do not prevent a domain name from being confusingly similar to a complainant's trademark.

The addition of the gTLD ".com" does not change the overall impression of the designation as being connected to the Complainant's trademark or prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its associated domain name.

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

The Respondent is not identified in the Whois database as the disputed domain name. Previous panels have held that a respondent is not commonly known by a domain name if the Whois information is not similar thereto.

The Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant does not carry out any activity for the Respondent and has no business with it. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's SCHNEIDER ELECTRIC trademark, nor permission to apply for registration of the disputed domain name. The disputed domain name is a typosquatted version of the Complainant's trademark, namely it was registered in an attempt to take advantage of Internet users' typographical errors, and this can be evidence that a respondent lacks rights and legitimate interests in the domain name concerned.

The disputed domain name resolves to an inactive page but has been used in connection with a phishing scheme in order that the Respondent may pass itself off as one of the Complainant's employees. This is neither a bona fide offering of goods or services, nor a legitimate non-commercial or fair use thereof.

The disputed domain name was registered and is being used in bad faith.

The disputed domain name is confusingly similar to the Complainant's trademark. Previous panels have seen this as evidence of bad faith. The disputed domain name was used in a phishing scheme whereby the Respondent attempted to pass itself off as an employee of the Complainant in order to receive an unauthorized payment. Given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge thereof. It is well established that using a domain name for purposes of phishing or other fraudulent activity constitutes solid evidence of bad faith use.

Respondent:

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

The Complainant has demonstrated to the Panel's satisfaction that it has UDRP-relevant rights in its SCHNEIDER ELECTRIC trademark by virtue of International Registered Trademark No. 715395. The mark is figurative but consists exclusively of standard characters in a stylized typeface whereby the graphical element is capable of being excised from the characters and disregarded (see section 1.10 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0")). This leaves the words SCHNEIDER ELECTRIC for comparison to the disputed domain name. The Second-Level Domain of the disputed domain name is a typographical variant of the said trademark where the letters "c" and "h" of the trademark have been removed and the letter "s" has been added together with a hyphen.

Notwithstanding the spelling variation, the Panel considers that the Complainant's mark is fully recognizable in the disputed domain name based upon a straightforward side-by-side comparison with the standard character element of the mark. The generic Top-Level Domain in respect of the disputed domain name, namely ".com", is typically disregarded for the purposes of the comparison under the first element analysis of the Policy. In all of these circumstances, the Panel finds that the disputed domain name is confusingly similar to the Complainant's SCHNEIDER ELECTRIC trademark.

With regard to the second element of the Policy, the Complainant asserts that the Respondent is not commonly known by the disputed domain name (according to a review of the corresponding Whois information), that the Respondent is not affiliated with, licensed nor authorized by the Complainant in any manner, that the Complainant carries out no activity for the Respondent and has no business with it, and that no license nor authorization has been granted to the Respondent by the Complainant to make any use of the Complainant's said trademark or to apply for registration of the disputed domain name. The Complainant notes that the disputed domain name is a typographical variant of its mark, and furthermore has demonstrably been used to impersonate it in a phishing scheme.

The Panel finds that the Complainant's assertions, taken together, are sufficient to constitute the requisite prima facie case that the Respondent has no rights and legitimate interests in the disputed domain name (see, for example, section 2.1 of the WIPO Overview 3.0). In particular, the Panel accepts that the disputed domain name is more probably than not a typosquatted or intentionally registered typographical variant of the Complainant's trademark which is intended to take unfair advantage of Internet users' errors in typing (or simply misperceiving the disputed domain name as) the Complainant's mark, and more importantly, which has evidently been used to impersonate the Complainant by way of misleading e-mail. It follows that the disputed domain name has been created and is being used for the purposes of typosquatting and phishing, such that this cannot confer rights and legitimate interests upon the Respondent.

The Respondent has not replied to the Complainant's allegations and evidence in this case and has failed to set out any alleged rights or legitimate interests which it might have claimed in the disputed domain name. There are no submissions or evidence on the record which might serve to rebut the Complainant's prima facie case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The disputed domain name is an intentionally designed typosquatting variant of the Complainant's mark. The evidence before the Panel shows that the disputed domain name has been used in a phishing scheme to impersonate a member of the Complainant's staff by way of an e-mail soliciting an improper payment. In these circumstances, it is entirely reasonable to infer that the disputed domain name was registered by the Respondent with knowledge of the Complainant and its rights, and with an intent to target these.

Any e-mail referencing or using the disputed domain name (whether deployed as the "from" e-mail address or as the "reply to" address or otherwise referred to in the e-mail content) would lead to an impersonation of the Complainant, taking unfair advantage of the confusing misspelling of the Complainant's mark, ultimately for the Respondent's commercial benefit. Registration of the disputed domain name for this purpose, and its subsequent deployment for such use, could not on any view be regarded as registration and use in good faith.

In all of these circumstances, the Panel considers that the Complainant has made out a sufficient case of registration and use in bad faith. The Respondent has not filed a Response in this case and therefore has not addressed the Complainant's assertions of bad faith registration and use to any extent. No explanation has been presented by the Respondent that might have suggested that its actions regarding the disputed domain name were in good faith, and the Panel has been unable to identify any conceivable good faith motivation which the Respondent might have put forward for its registration and use of the disputed domain name.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **sneiders-electric.com**: Transferred

PANELLISTS

Name	**Andrew Lothian**

DATE OF PANEL DECISION 2024-02-12

Publish the Decision