Decision for dispute CAC-UDRP-106174

Case number	CAC-UDRP-106174
Time of filing	2024-01-22 10:04:18
Domain names	mlschneiderelectric.com

Case administrator

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

Complainant

Organization	SCHNEIDER ELECTRIC SE

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	MarketLogic

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 owns the following trademarks:

- The international trademark SCHNEIDER ELECTRIC No. 715395 registered on 15 March 1999;
- The international trademark SCHNEIDER S ELECTRIC No. 715396 registered on 15 March 1999; and
- The European trademark SCHNEIDER ELECTRIC No. 1103803 registered on 12 March 1999.

The disputed domain name <mlschneiderelectric.com> was registered on 13 September 2017.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the Respondent:

(a) The Complainant, which was founded in 1871, is a French industrial business trading internationally. It manufactures and offers products for power management, automation, and related solutions. The Complainant's corporate website can be found at www.schneider-electric.com;

(b) The Complainant is the owner of the Complainant’s Trademarks;

(c) The Complainant is also the owner of many domain names which include the trademark SCHNEIDER ELECTRIC such as <schneiderelectric.com> registered since 4 April 1996;

(d) The disputed domain name was registered on 13 September 2017; and

(e) Under the disputed domain name there is no active website, however, in the past the disputed domain name redirected to the Complainant's official website.

PARTIES CONTENTIONS

The Parties' contentions are the following:

THE COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(i) The disputed domain name is confusingly similar to Complainant’s Trademarks as it contains the word element of Complainant's Trademarks „Schneider Electric“ in its entirety and the addition of non-distinctive element “ml” is not sufficient to avoid confusing similarity. The top-level suffix in the disputed domain name (i.e. the ".com") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

(ii) The Respondent is not known by or affiliated with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted by the Complainant to the Respondent to use the Complainant’s Trademarks or apply for registration of the disputed domain name. The disputed domain name is inactive. As a result, the Respondent has no rights or legitimate interest in the disputed domain name.

(iii) The disputed domain name is confusingly similar to the Complainant’s well-known and distinctive trademarks. Given the distinctiveness of the Complainant's Trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's Trademark without any plausible good faith reasons for registration and use of the disputed domain name by the Respondent. Thus, Respondent has registered the disputed domain name and is using it in bad faith.

THE RESPONDENT:

The Respondent did not provide any response to the complaint.

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 Uniform Domain Name Dispute Resolution Policy ("**UDRP**" or "**Policy**").

For details, please see "Principal Reasons for the Decision".

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).

For details, please see "Principal Reasons for the Decision".

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).

For details, please see "Principal Reasons for the Decision".

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 requires that the Complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(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 now analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in these proceedings.

IDENTITY / CONFUSING SIMILARITY

The disputed domain name is confusingly similar to Complainant's Trademarks as it contains the word element of Complainant's Trademarks „Schneider Electric“ in its entirety and the addition of non-distinctive element “ml” is not sufficient to avoid confusing similarity.

In line with the long-established UDRP practice the Panel also concludes that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (please see, for example, WIPO case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd. <croatiaairlines.com>).

As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant. No website is operated under the disputed domain name. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent does not have any right or legitimate interest in the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Panel noted that the Complainant is a well-known global company and Complainant’s Trademarks are registered and enjoy good reputation in many countries worldwide. Hence the Panel is convinced that denomination "Schneider Electric" is clearly distinctive to the Complainant. Distinctiveness and reputation of Complainant’s Trademarks has already been established in a previous case where Complainant has been subjected to cybersquatting (please see WIPO Case No. D2020-1403, Schneider Electric S.A. v. Whois Privacy Protection Foundation / Sales department <schneider-electeric.com>). In this respect, the Panel also deems appropriate to refer to paragraph 2 of the Policy under which it is the responsibility of the Respondent as the registrant of disputed domain name to determine whether its registration infringes or violates someone else's rights.

In the light of the above circumstances the Panel failed to find any plausible good faith reasons for registration and use of the disputed domain name by the Respondent. The Respondent has not submitted any response to the Complaint and therefore has not presented any facts or arguments that could counter the above conclusions of the Panel. As a result, the Panel holds that the disputed domain name has been registered and is being used by the Respondent in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **mlschneiderelectric.com**: Transferred

PANELLISTS

Name	**Michal Matějka**

DATE OF PANEL DECISION 2024-02-21

Publish the Decision