Decision for dispute CAC-UDRP-106096

Case number	CAC-UDRP-106096
Time of filing	2024-01-11 10:18:34
Domain names	siemenslifts.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Siemens Trademark GmbH & Co. KG.

Respondent

Organization	a+e

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 is the owner of the International trademark (Reg. Nr. 637074) SIEMENS, registered on March 31, 1995 (Nice classes 1, 3, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 17, 20, 21, 28, 35, 36, 37, 38, 40, 41 and 42), covering more than 60 countries worldwide.

FACTUAL BACKGROUND

The Complainant is a trademark holding company, licensing the trademarks at issue within Siemens Group. The Complainant is a subsidiary of Siemens AG, which is the ultimate mother company of the Siemens Group. The turnover of the Siemens Group in 2022 was 72 billion Euro, and the group employs more than 300.000 people worldwide. Siemens Group is headquartered in Berlin and Munich. It is one of the world's largest corporations, providing innovative technologies in 190 countries. Founded more than 175 years ago, the company is active in the fields of Automation and Control, Power, Transportation, Logistics, Information and Communications, Medical Technology, etc.

The Complainant and its mother company Siemens AG also owns domain names composed of its trademark, namely <siemens.com> (registered since September 29, 1986).

The Complainant's brand enjoys a significant commercial presence for a long period of time and continues to have the same, strong presence today. No doubt that this trademark is well-known worldwide for many decades.

The disputed domain name <siemenslifts.com> was registered on August 30, 2022, and resolves to the website which is being used to advertise and offer for sale elevators under the fraudulent statement that these are commercially originated by the Siemens Group.

PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name should be

transferred to it.

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 Panel agrees with the Complainant that the disputed domain name is confusingly similar to the Complainant's trademark SIEMENS. The Complainant’s trademark is included in its entirety. The addition of the generic term “lifts” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark. It does not change the overall impression of the designation as being connected to the Complainant’s trademark.

The Panel acknowledges that the Complainant presented prima facie evidence that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, the Complainant has not licensed, authorized, or permitted Respondent to use Complainant’s trademarks in any manner, including in domain names. The Respondent’s name (Kambiz Delfan) does not resemble the disputed domain name in any manner. Respondent’s use of the disputed domain name does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use.

On these bases, the Panel concludes that the Respondent does not have any rights or legitimate interests in regard to the disputed domain name.

As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by the Respondent, the Panel concludes that the Respondent meant Complainant's trademark SIEMENS when he/she registered the disputed domain name <siemenslifts.com> (see WIPO Overview 3.0, para. 3.1.1). Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

The disputed domain name points to the website which is being used to advertise and offer for sale elevators under the fraudulent statement that these are commercially originated by the Siemens Group. This means the Respondent has attempted attracting Internet users to his/her own website thanks to the Complainant’s trademark for its own commercial gain, which is an evidence of bad faith use (see para. 4(b)(iv) of the Policy). Therefore, the Panel finds that the disputed domain name 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. **siemenslifts.com**: Transferred

PANELLISTS

Name	**Darius Sauliūnas**

DATE OF PANEL DECISION 2024-03-05

Publish the Decision