Decision for dispute CAC-UDRP-106278

Case number	CAC-UDRP-106278
Time of filing	2024-02-20 10:00:59
Domain names	sch-electric99.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	SCHNEIDER ELECTRIC SE

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Zzxc@#123 Devils

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.

The Complainant also owns the domain name <schneiderelectric.com>, registered since April 4, 1996.

The disputed domain name <**sch-electric99.com**> was registered on April 9, 2023 and by the time of filing the Complaint resolves to resolves to an App login page displaying the Complainant's trademark used for online investments. an inactive website. By the time of this Decision, the disputed domain name resolves to an inactive website.

PARTIES CONTENTIONS

Complainant Contentions:

- In relation to the first element of the Policy, in summary, the Complainant contends that the disputed domain name <sch-electric99.com> is confusingly similar to its well-known trademark SCHNEIDER ELECTRIC; that the deletion of the portion "NEIDER" in "SCHNEIDER" and the addition of the number "99" in the trademark SCHNEIDER ELECTRIC is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark; that it does not change the overall impression of the designation as being connected to the Complainant's trademark.

- In relation to the second element of the Policy, in summary, the Complainant contends that the Respondent is not commonly known by the disputed domain name; 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 contends, that the disputed domain name points to an app login page displaying the Complainant's Trademark and used for online investments, with the intention to collect personal information of the Complainant's clients; that such use cannot be considered as a bona fide offering of services or fair use.

- In relation to the third element of the Policy, in summary, the Complainant contends that given the well-known status and distinctiveness of the SCHNEIDER ELECTRIC Trademark, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's Trademark; that given the use of the disputed domain name, the Respondent has intentionally attempted to attract, for commercial purposes, internet users to its website, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of its website.

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.

1. Identical or Confusingly Similar

According to the available record, the Trademarks submitted by the Complainant are composed by figurative elements as well. The Panel notes that there are no disclaimers over its textual elements, being SCHNEIDER ELECTRIC (e.g.: Reg. No. 715395). The Panel concludes, that the Complainant has sufficiently proved of having Trademark Rights over the words SCHNEIDER ELECTRIC and that its figurative elements are disregarded. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), section 1.10.

The Panel finds that the Complainant's Trademark it is recognizable in the disputed domain name. The Panel finds that according with the Complainant's contentions certainly the deletion of the portion "NEIDER" in "SCHNEIDER" and the addition of the number "99", in this Case, does not prevent a finding of confusing similarity between the disputed domain name and the SCHNEIDER ELECTRIC Trademark for the purposes of the Policy. See WIPO Overview 3.0, section 1.8.

In relation to the generic Top-Level Domain ".com", it may be ignored (see WIPO Overview 3.0, section 1.11.1; and Schneider Electric SE v. Fundacion Privacy Services LTD, CAC-UDRP Case No. 104170).

Therefore, the disputed domain name **<sch-electric99.com>** is confusingly similar to Complainant's SCHNEIDER ELECTRIC Trademark.

2. Rights or Legitimate Interests

According to the evidence submitted by the Complainant, 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 element of the Policy. To this Panel, it is clear that:

(1) the Respondent purposely selected a well-known trademark as SCHNEIDER ELECTRIC which has been registered in multiple jurisdictions, to build a website based on the Complainant's Trademark, suggesting a false affiliation, confusing the Internet users who seeks or expects to find the Complainant on the Internet.

(2) the Respondent is not associated or affiliated to the Complainant.

(3) the Complainant has not granted any authorization to the Respondent to use the SCHNEIDER ELECTRIC Trademark, whether a license to offer any product or service, or any rights to apply for the registration of the disputed domain name.

(4) there is no evidence that the Respondent has become commonly known by the term "sch-electric99.com".

(5) the fact that the disputed domain name has been used to build a website based on the Complainant's Trademark, in this Case, an App login page for online investments, it is sufficient to this Panel to find that such use cannot constitute a bona fide offering of goods or services as set out in paragraph 4.c.(i) of the Policy, and that the Respondent has incurred on illegal activity, with all of it, lacking of any rights or legitimate interests in respect of the disputed domain name. See WIPO Overview 3.0, section 2.13.1.

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

3. Registered and Used in Bad Faith

3.1 Registration in Bad Faith:

The Complainant acquired its Trademark Rights over the word SCHNEIDER ELECTRIC in 1999 (e.g.: Reg. No. 715395). The Panel finds that 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 (see, e.g.: Schneider Electric SE v. Fundacion Privacy Services LTD, CAC-UDRP Case No. 104170; Schneider Electric SE v. Albert Herrera, CAC-UDRP Case No. 105167; Schneider Electric SE v. marc finot, CAC-UDRP Case No. 106118).

The fact that the Respondent selected a well -known Trademark as SCHNEIDER ELECTRIC to build a website based on the Complainant's Trademark, in this Case, an App login page for online investments, it is sufficient to this Panel to find that at the time of the registration of disputed domain name, the Respondent did it, with the Complainant's business and Trademark in mind, therefore, incurring in bad faith. WIPO Overview 3.0, sections 3.2.1 and 3.2.2.

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

3.2. Bad Faith Use:

Given the fact that, by the time of this Decision, the disputed domain name points to an inactive website, this Panel, address such non-use, under the passive holding doctrine.

Accordingly, 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 this case, according with the submitted evidence, and the facts, it has been proved that:

(i) SCHNEIDER ELECTRIC is a worldwide well-known Trademark, which enjoys distinctiveness and a strong reputation;

(ii) the Respondent failed to submit any communication and/or a Response;

(iii) the Respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), 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 used for illegal activity and currently it's passively held, which under any scenario can only contribute with the Respondent's Trademark bad faith abuse.

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. **sch-electric99.com**: Transferred

PANELLISTS

Name	**María Alejandra López García**

DATE OF PANEL DECISION 2024-03-23

Publish the Decision