Decision for dispute CAC-UDRP-106419

Case number	CAC-UDRP-106419
Time of filing	2024-04-05 13:25:36
Domain names	schneiderelectricse.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	Brian Cook

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

According to the evidence submitted by Complainant, Complainant is the owner of the international trademark nr. 715395 SCHNEIDER ELECTRIC registered on 15 March 1999.

FACTUAL BACKGROUND

According to the information provided by the registrar the disputed domain name <schneiderelectricse.com> was registered on 20 March 2024.

The disputed domain name does not resolve to an active website. In addition MX records have been set up.

PARTIES CONTENTIONS

According to the evidence submitted Complainant, which was founded in 1871, is a French industrial business trading internationally and is featured on the NYSE, Euronext and the French CAC 40 stock market index. In 2023, Complainant’s revenues

amounted to 36 billion Euros

According to Complainant the disputed domain name is confusingly similar to Complainant's trademark. Complainant asserts that the disputed domain name directly and entirely incorporates Complainant’s registered trademark SCHNEIDER ELECTRIC along with the term ‘‘se’’, a term that can be considered related to Complainant’s company name.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Complainant does not carry out any activity for, nor has any business with Respondent. Neither license nor authorization has been granted to Respondent to make any use of Complainant’s trademark SCHNEIDER ELECTRIC, or apply for registration of the disputed domain name by Complainant. In addition, Respondent bears no relationship to Complainant and its trademark, and the disputed domain name has no other meaning except for referring to Complainant’s company name and trademark. The disputed domain name points to a parking page. Complainant contends that Respondent did not make any use of disputed domain name, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It proves a lack of legitimate interests in respect of the disputed domain name except in order to create a likelihood of confusion with Complainant and its trademark.

According to Complainant the disputed domain name is registered and is being used in bad faith. Given the distinctiveness of Complainant's trademark and reputation, it is reasonable to infer that Respondent has registered the disputed domain name with full knowledge of Complainant's trademark. Furthermore, the disputed domain name points to a parking page. Complainant contends that 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 domain name by Respondent that would not be illegitimate, such as passing off, an infringement of consumer protection legislation, or an infringement of Complainant’s rights under trademark law. Finally, the disputed domain name has been set up with MX records which suggests that it may be actively used for email purposes.

Complainant contends 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

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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 the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark (Policy, Par. 4 (a)(i)). Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark or the principal part thereof in its entirety. Complainant has established that it is the owner of a trademark registration for SCHNEIDER ELECTRIC. The disputed domain name incorporates the entirety of the well-known SCHNEIDER ELECTRIC trademark as its distinctive element. The addition of the words “se” in the disputed domain name, is insufficient to avoid a finding of confusing similarity as the SCHNEIDER ELECTRIC trademark remains the dominant component of the disputed domain name. In addition, the words “se” are part of the full company name of Complainant and refer to the corporate form of Complainant, as SE means Societas Europaea (European Company), a company established

under EU law.
The top-level domain “com” in the disputed domain name may be disregarded.
The Panel notes that Complainant’s registration of its trademark predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. Respondent did not submit any response.
Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the SCHNEIDER ELECTRIC trademark. Respondent knew or should have known that the disputed domain name included Complainant’s well-known mark. The Panel notes the undisputed submission of Complainant that the disputed domain name does not resolve to an active website. It is well established that non-use of a domain name does not prevent a finding of bad faith use under the doctrine of passive holding (see section 3.3. of the WIPO Overview 3.0).
The undisputed submission that there are active MX records connected to the disputed domain name, suggests that it is unlikely that Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address. The record in this case contains no evidence of illegal behavior, but the configuration of MX records presents the potential for an email phishing scheme impersonating Complainant.
The Panel further notes that the disputed domain name incorporates Complainant’s well-known trademark in its entirety which indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **schneiderelectricse.com**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2024-05-02

Publish the Decision