Decision for dispute CAC-UDRP-106914

Case number	CAC-UDRP-106914
Time of filing	2024-10-02 17:45:35
Domain names	schneiderelectricrepairs.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	SCHNEIDER ELECTRIC SE

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Ruth Khainga

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 trademarks “SCHNEIDER ELECTRIC” and “SCHNEIDER ELECTRIC with a device”:

International trademark Reg. No. 715395 registered on March 15, 1999;

International trademark Reg. No. 715396 registered on March 15, 1999; and

EUIPO trademark Reg. No. 1103803 registered on March 12, 1999.

FACTUAL BACKGROUND

The Complainant, founded in 1871, is a French industrial company operating internationally. It manufactures and provides products for power management, automation, and related solutions. The Complainant is listed on the NYSE Euronext and the French CAC 40 stock market index. In 2023, the Complainant’s revenues reached 36 billion euros. It also offers comprehensive industrial repair services and solutions for equipment from any major manufacturer on its website.

The disputed domain name was registered on December 19, 2023, and redirects to the Complainant’s official website. The disputed domain name has also been set up with MX records.

PARTIES CONTENTIONS

COMPLAINANT:

(i) The Complainant has rights in the SCHNEIDER ELECTRIC mark, as identified in the section “Identification of Rights” above. The disputed domain name is confusingly similar to the Complainant's SCHNEIDER ELECTRIC mark because it incorporates the Complainant’s mark in full, adding only the descriptive term “repairs” (a business descriptor of the Complainant) and the “.com” generic top-level domain (gTLD).

(ii) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name, nor has the Complainant authorized or licensed the Respondent to use its SCHNEIDER ELECTRIC mark in the domain name. The Respondent does not use the domain name in connection with any bona fide offering of goods or services, nor for a legitimate non-commercial or fair use. The disputed domain name redirected to the homepage of the Complainant’s official website, in a clear attempt to mislead consumers into mistakenly believing that the domain is associated with the Complainant and its services.

(iii) The Respondent has registered and is using the disputed domain name in bad faith. The disputed domain name is confusingly similar to the Complainant’s well-known trademark SCHNEIDER ELECTRIC. The Respondent registered and used the domain name with actual knowledge of the Complainant's rights in the SCHNEIDER ELECTRIC mark. The Respondent’s attempt to impersonate and pass itself off as the Complainant by resolving the domain name to the Complainant’s official website provides strong evidence of bad faith use and registration. The disputed domain name has also been set up with MX records, suggesting potential active use for email purposes.

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

Rights

The Complainant asserts ownership of the registered trademark SCHNEIDER ELECTRIC, as identified in the section “Identification of Rights” above. The Panel notes that a trademark registration with an international trademark organization is sufficient to establish rights in that mark. Accordingly, the Panel finds that the Complainant has established its rights in the SCHNEIDER ELECTRIC mark.

The Complainant further contends that the disputed domain name is confusingly similar to its SCHNEIDER ELECTRIC mark, as the disputed domain name **<schneiderelectricrepairs.com>** incorporates the Complainant’s mark in full, adding only the descriptive term

“repairs” (a business descriptor of the Complainant) and the “.com” gTLD. The Panel agrees and finds that the disputed domain name is confusingly similar to the Complainant’s SCHNEIDER ELECTRIC mark under Policy paragraph 4(a)(i).

No rights or legitimate interests

A complainant must first make a prima facie case that a respondent lacks rights and legitimate interests in the disputed domain name under Policy paragraph 4(a)(ii), then the burden shifts to the respondent to show it does have rights or legitimate interests. See Croatia Airlines d. d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455 (the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP). See also Advanced International Marketing Corporation v. AA-1 Corp, FA 780200 (FORUM Nov. 2, 2011) (finding that a complainant must offer some evidence to make its prima facie case and satisfy Policy paragraph 4(a)(ii).

The Complainant contends that the Respondent has no rights or legitimate interest in the disputed domain name as the Respondent is not commonly known by the disputed domain name, nor has the Respondent been authorized by the Complainant to use the Complainant's mark, and the Respondent is not affiliated with the Complainant. Relevant information, such as WHOIS information, can be used as evidence to show a respondent is or is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii). The Panel notes that the WHOIS data lists "Ruth Khainga" as the registrant, and there is no evidence in the record to suggest the Respondent was authorized to use the mark. Therefore, the Panel finds that the Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii).

Next, the Complainant contends that the Respondent does not use the disputed domain name for any bona fide offering of goods or services or legitimate noncommercial or fair use. The Complainant specifically points out that the Respondent redirected the disputed domain name to the Complainant’s own website, clearly attempting to mislead consumers into mistakenly believing that the disputed domain name is associated with the Complainant and its services. The Complainant has provided a screenshot of the disputed domain name's resolving website. The Panel finds that the use of the disputed domain name to impersonate the Complainant or pass the Respondent off as the Complainant by redirecting Internet users to the Complainant’s website without the Complainant’s authorization does not constitute bona fide offering of goods or services, nor any legitimate non-commercial or fair use. See Morgan Stanley v. Doniqish Doniqish, FA 1898199 (Forum June 24, 2020) (“Redirecting Internet users to the Complainant’s website without the Complainant’s authorization is not bona fide use or legitimate noncommercial fair use”); see also Direct Line Ins. plc v. Low-cost-domain, FA1337658 (Forum Sept. 8, 2010) (“The Panel finds that using Complainant’s mark in a domain name over which Complainant has no control, even if the domain name redirects to Complainant’s actual site, is not consistent with the requirements of Policy paragraph 4(c)(i) or paragrph 4(c)(iii) . . .”). The Panel therefore finds the Respondent fails to use the disputed domain name in connection with a bona fide offering of goods and services or a legitimate or fair use per Policy paragraph 4(c)(i) and (iii).

The Panel concludes that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Bad faith

Paragraph 4(b) of the Policy provides a non-exclusive list of circumstances that evidence registration and use of a domain name in bad faith. Any one of the following is sufficient to support a finding of bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that the complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the respondent’s website or location or of a product or service on the respondent’s website or location.

The Complainant contends that the Respondent’s attempt to impersonate and pass itself off as the Complainant by redirecting the domain name to the Complainant’s official website provides strong evidence of bad faith use and registration of the disputed domain name. The Complainant points out that the Respondent impersonates the Complainant by redirecting Internet users to the Complainant’s website without authorization. The Panel finds that using the disputed domain name to redirect Internet users to the Complainant’s website is likely to enable the Respondent to later divert users to competing websites after having built up mistaken confidence in the source of the content, thereby disrupting the Complainant’s business. See Morgan Stanley v. Doniqish Doniqish, FA 1898199 (Forum June 24, 2020) (“Redirecting a domain name containing the Complainant’s trade mark to the Complainant’s own web site in these circumstances is bad faith registration and use.”); see also Altavista Co. v. Brunosousa, D2002-0109 (WIPO Apr. 3, 2002) (“When a domain name is used to redirect to the complainant’s website, that “such redirection will allow the

Respondent to divert future users to competing web sites after having built up mistaken confidence in the source of the content," which constitutes bad faith registration and use."). Therefore, the Panel agrees and finds that the Respondent registered and used the disputed domain name in bad faith per Policy paragraph 4(b)(iii) or (iv).

The Complainant further contends that, given the distinctiveness of the Complainant's trademark and reputation, the Respondent registered the disputed domain name with knowledge of the Complainant's trademark SCHNEIDER ELECTRIC. The Panel notes that while constructive knowledge is insufficient for a finding of bad faith under Policy paragraph 4(a)(iii), registration of a disputed domain name with actual knowledge of another's trademark rights is sufficient to establish bad faith, which can be shown by the notoriety of the mark and the use the Respondent makes of the disputed domain name. See Orbitz Worldwide, LLC v. Domain Librarian, FA 1535826 (Forum February 6, 2014) ("The Panel notes that although the UDRP does not recognize 'constructive notice' as sufficient grounds for finding Policy paragraph 4(a)(iii) bad faith, the Panel here finds actual knowledge through the name used for the domain and the use made of it."); see also AutoZone Parts, Inc. v. Ken Belden, FA 1815011 (Forum December 24, 2018) ("Complainant contends that Respondent's knowledge can be presumed in light of the substantial fame and notoriety of the AUTOZONE mark, as well as the fact that Complainant is the largest retailer in the field. The Panel here finds that Respondent did have actual knowledge of Complainant's mark, demonstrating bad faith registration and use under Policy paragraph 4(a)(iii)."). The Panel agrees and infers, due to the notoriety of the Complainant's mark and the Respondent's redirecting of the disputed domain name to the Complainant's own website, that the Respondent had actual knowledge of the Complainant's rights in the mark SCHNEIDER ELECTRIC at the time of registering the disputed domain name, and thus finds the bad faith registration of the disputed domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **schneiderelectricrepairs.com**: Transferred

PANELLISTS

Name	**Mr. Ho-Hyun Nahm Esq.**

DATE OF PANEL DECISION 2024-10-26

Publish the Decision