

ADMINISTRATIVE PANEL DECISION

Inventio AG v. Qutbuddin Hedar Ali

Case No. D2022-0679

1. The Parties

The Complainant is Inventio AG, Switzerland, internally represented.

The Respondent is Qutbuddin Hedar Ali, Singapore.

2. The Domain Name and Registrar

The disputed domain name <schindlerliftsg.com> is registered with Dreamscape Networks International Pte Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 28, 2022. On February 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 4, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 29, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 30, 2022.

The Center appointed Haig Oghigian as the sole panelist in this matter on April 4, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The dispute concerns the following disputed domain name: <schindlerliftsg.com> registered with the Registrar on May 5, 2021. The disputed domain name does not resolve to an active website. As regards the Respondent, little is known other than the information disclosed by the Registrar, which identifies the Respondent as allegedly located in Singapore.

The Complainant is a wholly owned subsidiary of Schindler Holding AG, and claims ownership to the trademark SCHINDLER (the "Trademark") first registered in Australia in 1927. The Complainant is the owner of International Registration No.1265628 for SCHINDLER with a priority of December 2, 2004, and the Singapore trademark T9804583E for SCHINDLER with an application date of May 13, 1998.

5. Parties' Contentions

A. Complainant

The following information has been taken from the Complaint.

The Complainant and its brands are worldwide known in the elevator and escalator business.

The Complainant is one of the world's leading providers of elevator, escalator, and moving rocks and related equipment, as well as a provider of maintenance and modernization services. It was established in 1874, it has over 1,000 branches and offices in more than 100 countries. The Complainant is a listed company and counts approximately 69,000 employees. The Complainant has registered the trademark SCHINDLER and variations thereof in more than 150 countries. The Complainant alleges that the disputed domain name is partially identical and confusingly similar to the Complainant's trademarks.

The Complainant also alleges that Respondent lacks rights or legitimate interests in the disputed domain name:

"(i) the domain name is never being used by the Respondent in connection with any *bona fide* offering of goods and services nor is the Respondent making any legitimate non-commercial or fair use of the domain name.

(ii) the Complainant did not license or otherwise authorize the use of the trademark 'Schindler' by the Respondent."

Complaint page 7 B i) and ii)

Furthermore, the Complainant alleges that the evidence demonstrates that the Respondent registered the disputed domain name in bad faith within the meaning of the Policy:

"There is no doubt that the Respondent used Schindler well before the registration of the disputed domain name especially with a view to Schindler's reputation and its extensive registration of 'Schindler' worldwide as a trademark and as a domain name."

Complaint page 7 C. i)

There is no evidence in this file that was adduced by the Respondent to demonstrate any rights or legitimate interests. The Respondent, having been duly notified of the Complaint and the present proceeding, has chosen not to reply to the contentions of the Complainant nor otherwise participated in this arbitration.

There is therefore no evidence that the Respondent was commonly known as "schindlerliftsg". No evidence adduce in this file demonstrates that the Respondent has used any trademarks similar to the one used in the

disputed domain name.

There is no evidence that would show that the Respondent was acting in accordance of any rights or legitimate interests upon registration of the disputed domain name.

There is also no evidence that would show that the Respondent had “use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services” (See paragraph 4 (c) of the Policy referred above).

Therefore, the Panel concludes that the Respondent has neither rights or legitimate interests in the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The disputed domain name fully incorporates the SCHINDLER Trademark. It is now trite law that a domain name that wholly incorporates a registered trademark is enough to conclude that there is a confusing similarity. This conclusion must remain unchanged even if other words are added to the domain name.

The Panel agrees with the Complainant that the disputed domain name is identical or confusingly similar to the SCHINDLER Trademark. The Panel is also of the view that the Complainant has demonstrated to the Panel’s satisfaction that it has the rights to the SCHINDLER Trademark as per the registration of the SCHINDLER Trademark and also of its commercial use.

B. Rights or Legitimate Interests

In accordance with paragraph 4 (c) of the Policy, a respondent, in order to demonstrate its rights or legitimate interest can, without limitation, refer and to the following circumstances:

(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence in this file that was adduced by the Respondent to demonstrate any rights or legitimate interests. The Respondent, having been duly notified of the Complaint and the present proceeding, has chosen not to reply to the contentions of the Complainant nor otherwise participated in this arbitration.

There is therefore no evidence that the Respondent was commonly known as “schindlerliftsg”. No evidence adduce in this file demonstrates that the Respondent has used any trademarks similar to the one used in the disputed domain name nor that the Respondent has been authorized to register any domain names including the trademark. Nevertheless, the Respondent has registered the confusingly similar disputed domain name, which couples the Complainant’s trademark with the term “lift” that is descriptive of the services offered by the Complainant. Such construction carries a risk of implied affiliation that cannot constitute fair use. See

section 2.5.1 of the [WIPO Overview 3.0](#).

There is no evidence that would show that the Respondent was acting in accordance of any rights or legitimate interests upon registration of the disputed domain name.

There is also no evidence that would show that the Respondent had “use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services” (see paragraph 4 (c) of the Policy referred above).

Therefore, the Panel concludes that the Respondent has neither rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists four examples of bad faith behavior. This list is not exhaustive.

The disputed domain name is being passively held. As found in section 3.3 of the [WIPO Overview 3.0](#), “[f]rom the inception of the UDRP, panelists have found that the non-use of a domain name [...] would not prevent a finding of bad faith under the doctrine of passive holding”. Under this doctrine, panels will consider a range of circumstances under the broader case circumstances, such as the distinction of a complainant’s trademark, the failure of a respondent to participate in the proceedings, and the implausibility of any good-faith use to which a domain name may be put.

In this instance, the Panel agrees with the contention of the Complainant and sees no reason for the Respondent to have registered the disputed domain name other than to trade-off of the reputation and goodwill of the Complainant’s reputable SCHINDLER Mark. The Complainant has used its trademark since 1874, which is more than 100 years before the Respondent registered the disputed domain name.

The Panel also concludes that even if the Respondent ignored the rights of the Complainant in the SCHINDLER Trademark, a simple trademark search or a web browser search would have revealed such rights. Thus, this also supports a finding of bad faith. See *BzzAgent, Inc. v. bzzaget.com c/o Nameview Inc. Whois IDentity Shield and Vertical Axis*, WIPO Case No. [D2010-1187](#).

It is also clear that because the Respondent is using the word “lift” after “Schindler”, that they were fully aware of the Schindler trademark and tried to take advantage of the confusingly similar disputed domain name. As such, the nature of the domain name itself leads to a conclusion of bad faith registration and use. See *Charles Jordan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#).

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <schindlerliftsg.com> be transferred to the Complainant.

/Haig Oghigian/

Haig Oghigian

Sole Panelist

Date: May 4, 2022