

ADMINISTRATIVE PANEL DECISION

Siemens AG and Siemens Trademark GmbH & Co. KG v. Domains By Proxy, LLC / Saud bashir
Case No. D2022-0969

1. The Parties

The Complainants are Siemens AG (the “First Complainant”) and Siemens Trademark GmbH & Co. KG (the “Second Complainant”), Germany (jointly the “Complainants”), represented by Müller Fottner Steinecke Rechtsanwälte PartmbB, Germany.

The Respondent is Domains By Proxy, LLC, United States of America / Saud bashir, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <siemens-service-dubai.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 21, 2022. On March 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 23, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainants on March 30, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainants filed an amended Complaint on March 30, 2022.

The Center verified that the Complaint together with the amended 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 April 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 26, 2022. The Respondent did not submit a formal response.

Accordingly, the Center notified the Parties with Commencement of Panel Appointment Process on April 27, 2022.

The Center appointed Andrew F. Christie as the sole panelist in this matter on May 16, 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 First Complainant, Siemens AG, is headquartered in Berlin and Munich. It is one of the world's largest electrical engineering and electronics companies, and provides innovative technologies and comprehensive know-how to benefit customers in 190 countries. Founded more than 150 years ago, it is active in the areas of household appliances, automation and control, power, transportation, information and communications. The trademark rights of the First Complainant are partly registered by the Second Complainant, Siemens Trademark GmbH & Co. KG, which is the First Complainant's affiliated trademark holding company.

The First Complainant is the owner of a number of trademark registrations for the figurative trademark SIEMENS, including United Arab Emirates Trademark Registrations No. 17101 (filed on July 7, 1996). The Second Complainant is the owner of International Trademark Registration No. 637074 (registered on March 31, 1995) for the word trademark SIEMENS.

The Complainants own and use for business purposes various domain names consisting of the SIEMENS trademark, including <siemens.com>, <siemens.eu>, <siemens.de>, and <siemens-home.com>.

The disputed domain name was registered on February 15, 2022. The Complainants have provided a screenshot, taken on March 21, 2022, showing that the disputed domain name resolved to a parking page with click-through links in the German language. At the top of the page is the statement "Diese Domain erwerben", which translates to "purchase this domain". At the time of this decision, the disputed domain name resolves to a similar parking page.

5. Parties' Contentions

A. Complainant

The Complainants made the following contentions to establish that the disputed domain name is confusingly similar to a trademark in which the Complainants have rights. By virtue of its long use and renown, the Complainants' SIEMENS trademark is exclusively associated with the Complainants. The disputed domain name includes the trademark SIEMENS and due to its reputation, the public will automatically recognize it and will associate the disputed domain name with the Complainants. In the disputed domain name, the trademark SIEMENS is followed by the term "service" and the place of location where services are purportedly offered, namely in Dubai. These additional elements are of merely descriptive character and cannot avoid any confusion. Internet users will understand the whole sign "siemens-service-dubai" as referring to "services" offered in the city of Dubai, dedicated to the products provided by the Complainants under the trademark SIEMENS. The applicable generic Top-Level Domain ("gTLD") ".com" should be disregarded as it is a standard registration requirement.

The Complainants made the following contentions to establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not and has never been one of the Complainants' representatives, employees or licensees, and is not otherwise authorized to use the trademark SIEMENS. The Complainants do not have any connection with the Respondent. The Respondent has not been commonly known by the disputed domain name. The Respondent is not making any legitimate noncommercial or fair use of the disputed domain name. The disputed domain name resolves

to a parked webpage, which is not considered to be a *bona fide* offering of goods or services, especially if it contains a well-known trademark such as SIEMENS. Since the disputed domain name has been registered under privacy protection, it is clear that the Respondent is well aware of the well-known trademark SIEMENS which has extensively been used in the United Arab Emirates and throughout the world for decades prior to the registration of the disputed domain name. The disputed domain name was registered on February 15, 2022, shortly after the Respondent had knowledge that a complaint regarding his other domain names <siemens-service-centre.com> and <siemens-service-centre-dubai.com> was filed with the Center. There is nothing to suggest that the Respondent is not aiming at misleadingly diverting consumers or at tarnishing the trademark at issue.

The Complainants made the following contentions to establish that the disputed domain name was registered and is being used in bad faith. The Respondent knew or should have known about the Complainants' earlier rights in the trademark SIEMENS. In deliberately registering the disputed domain name after being notified about the complaint against his other domain names <siemens-service-centre.com> and <siemens-service-centre-dubai.com>, the Respondent intended to use the strong reputation throughout the world of the Complainants' trademark SIEMENS in order to confuse the public and to cause damage to the Complainants in disrupting their business. The disputed domain name was registered in order to prevent the Complainants from adopting the trademark SIEMENS in a corresponding domain name. The disputed domain name is of relevance for the Complainants to offer their products and services for the United Arab Emirates market and public. The overall evidence indicates that the Respondent's choice of the disputed domain name was deliberate for its substantial similarity with the Complainants' trademark, and with the likely intention to benefit from the reputation and goodwill of the Complainants' trademark, which denotes bad faith.

B. Respondent

The Respondent did not provide a formal reply to the Complainant's contentions. However, on March 30, 2022, the Center received an email from the person named as the Respondent, replying to a communication copied to the Respondent, stating: "Hi, thank you for your email. However I don't own this domain, named as mentioned above. However I work for clients, and I will check if they own any domain that you had mentioned. Regards Regards". No further communication was received from this person. While the Respondent's communication states that he does not own the disputed domain name, the Panel has no further information about any alleged client of the Respondent in connection with the disputed domain name, and the Panel notes that the Respondent is the registrant of the disputed domain name as confirmed by the Registrar. Therefore, the Panel considers that Saud bashir is the Respondent in this proceeding.

6. Discussion and Findings

A. Identical or Confusingly Similar

Once the gTLD ".com" is ignored (which is appropriate in this case), the disputed domain name consists of the Complainants' SIEMENS trademark, followed by the words "service" and "dubai", each separated by a hyphen. The Complainants' trademark is clearly recognizable within the disputed domain name. The addition of the word "service" and the geographic term "dubai" does not avoid a finding of confusing similarity of the disputed domain name with the Complainants' trademark.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainants have rights.

B. Rights or Legitimate Interests

The Respondent is not a licensee of the Complainants, is not otherwise affiliated with the Complainants, and has not been authorized by the Complainants to use its SIEMENS trademark. The Respondent has not provided any evidence that it has been commonly known by, or has made a *bona fide* use of, the disputed

domain name, or that it has, for any other reason, rights or legitimate interests in the disputed domain name. The evidence provided by the Complainants shows that the disputed domain name has been used to resolve to a parking page with what appears to be pay-per-click links to various goods and services, and a statement that the disputed domain name is available for purchase. Given the confusing similarity of the disputed domain name to the Complainants' trademark, the absence of any relationship between the Respondent and the Complainants, and the risk of implied false affiliation with the Complainants, the Respondent's use of the disputed domain name is neither a *bona fide* use nor a legitimate noncommercial or fair use.

The Complainants have put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the Respondent has not rebutted this. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The disputed domain name was registered several decades after the Complainants first registered their SIEMENS trademark. It is inconceivable that the Respondent registered the disputed domain name ignorant of the existence of the Complainants' trademark, given that the disputed domain name consists of the Complainants' trademark with the addition of the word "service" and the geographic term "dubai", a region in which the Complainants operate.

Given the Respondent's lack of rights or legitimate interests in the disputed domain name and the confusing similarity of the disputed domain name to the Complainants' trademark, any use of the disputed domain name by the Respondent almost certainly implies an affiliation with the Complainants that does not exist. The Respondent's registration of the disputed domain name in these circumstances is a bad faith registration.

Furthermore, the evidence on the record provided by the Complainants indicates that the Respondent has offered the disputed domain name for sale, and has used the disputed domain name in an attempt to attract, almost certainly for commercial gain, Internet users to a website by creating confusion in the minds of the public as to an association between the website and the Complainants. The Respondent's use of the disputed domain name in this manner is a bad faith use.

Accordingly, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

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, <siemens-service-dubai.com>, be transferred to the First Complainant, Siemens AG.

/Andrew F. Christie/

Andrew F. Christie

Sole Panelist

Date: May 30, 2022