

ADMINISTRATIVE PANEL DECISION

Siemens AG and Siemens Trademark GmbH & Co. KG v. Name Redacted Case No. D2022-1632

1. The Parties

The Complainant is Siemens AG, Germany, and Siemens Trademark GmbH & Co. KG, Germany (hereinafter collectively referred as the “Complainant” or “Complainants”), represented by Müller Fottner Steinecke Rechtsanwälte Part mbB, Germany.

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <siemens-healthnieers.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 5, 2022. On May 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 6, 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 Complainant on May 18, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 20, 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”).

¹ The Respondent appears to have used the names and/or contact details of third parties when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2022. On June 10, 2022, the disclosed registrant sent an email communication to the Center informing that it has received the Written Notice but the registration of the disputed domain name has been made, without his knowledge or authorization, by a third party using his identity. Accordingly, the Center notified the Respondent's default on July 6, 2022.

The Center appointed Marilena Comanescu as the sole panelist in this matter on July 12, 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 Complainants belong to the Siemens Group, founded more than 150 years ago, currently being one of the world's largest companies providing innovative technologies and comprehensive know-how serving customers in 190 countries. Siemens Group is active in various fields, such as Medicine, Automation and Control, Power, Transportation, Logistics, Information and Communication.

By virtue of long and extensive use, SIEMENS trademark has become well-known worldwide.

The Complainant owns trademark registrations in different jurisdictions for SIEMENS HEALTHINEERS, SIEMENS and HEALTHINEERS such as the following:

- the European Union Trade Mark Registration No. 015400849 for SIEMENS HEALTHINEERS with device, filed on May 4, 2006, and registered on November 21, 2018, for goods and services in Classes 1, 5, 7, 9, 10, 16, 25, 35, 36, 37, 38, 41, 42, 44;
- the International Trademark Registration No. 1320512 for the word HEALTHINEERS, registered on March 10, 2016, in many jurisdictions worldwide, for goods and services in Classes 1, 5, 9, 10, 16, 25, 35, 36, 37, 38, 41, 42, 44; and
- the International Trademark Registration No. 637074 for the word SIEMENS stylised, registered on March 31, 1995, in many jurisdictions worldwide, for goods and services in Classes 1, 3, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 17, 20, 21, 28, 35, 36, 37, 38, 40, 41 and 42.

The Complainant promotes its services on various websites, including on <new.siemens.com> and <siemens-healthineers.com>.

The disputed domain name <siemens-healthnieers.com> was registered on April 18, 2022, and, at the time of filing the Complaint, it resolves to an inactive website.

The Respondent is an entity whose identity was initially protected by a privacy shield. An individual with an identical name as the underlying registrant, after the reception of the Written Notice, and the Complaint, sent a timely email communication to the Center claiming identity theft.

From the day of its registration, the disputed domain name was used in connection with a "phishing scheme" namely for sending emails, impersonating an employee of the Complainant, in order to try to conduct a customer of the Complainant to wire an amount of money to an account which was misleadingly presented as the new bank account of the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name incorporates and is confusingly similar to the trademark SIEMENS HEALTHINEERS, the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent registered and is using the disputed domain name in bad faith knowing the Complainant's trademark and business. The Complainant requests the transfer of the disputed domain name to it.

In its amended Complaint, the Complainant acknowledges that the Respondent may have misspelled the identity of the Name Redacted entity and that the Respondent is usurping the identity of this individual, particularly due to the false email addresses registered in the Whois.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Preliminary Procedural Issue. Respondent and Redaction of Respondent's Identity

As noted above, the Name Redacted has been confirmed by the Registrar as the listed registrant of record for the disputed domain name.

Name Redacted claims in its email communication of June 10, 2022, that it is a victim of identity theft, as detailed in section 3 above.

The Complainant also comments in its Amended Complaint that the Respondent is very likely usurping the identity of Name Redacted.

The Panel will refer to the disputed domain name registrant's name as Name Redacted, and to the individual or entity which registered (and used) the disputed domain name as the Respondent.

The Panel is satisfied that the Center, by sending communications to the registrant revealed by the Registrar to its listed Whois postal address, email addresses, and to another postal address indicated in the Complaint, based on the Complainant's own searches, has exercised extreme care and discharged its responsibility under paragraph 2 of the Rules to employ all reasonably available means to serve actual notice of the Complaint upon the Respondent.

Further, under paragraph 4(j) of the Policy the Panel has the power to determine to redact portions of its decision in exceptional circumstances. The practical result of the exercise of this power is that the provider, in this case the Center, will not publish on the Internet the full decision, but will redact the portion determined by the Panel to be redacted.

The evidence has made it clear in the opinion of this Panel that a fraud was perpetrated, and that Name Redacted is one of the victims of identity theft. Thus, although the disputed domain name holder is the proper Respondent in this proceeding, the real name and contact details of the person who wrongly effected the registration of the disputed domain name is unknown.

This Panel has formed the view that it may be unfair to Name Redacted to continue to have its name associated with the proceeding, especially where the impression may be given to Internet users that Name Redacted has some responsibility for some of the events, whereas in fact Name Redacted does not, being an innocent party.

The Panel has therefore decided that in all the circumstances this is an exceptional case and that it is appropriate to redact the registrant's name and information from the Panel's decision.

See also *Lutosa v. Name Redacted*, WIPO Case No. [D2021-0809](#); *Accenture Global Services Limited v. Domains by Proxy, LLC / Name Redacted*, WIPO Case No. [D2013-2099](#); and *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

B. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the trademark SIEMENS HEALTHINEERS.

The disputed domain name <siemens-healthnieers.com> incorporates the Complainant's trademark with a misspelling consisting in the reversal of the letters "i" and "n". However, a domain name which consists of a common, obvious or intentional misspelling of the trademark does not prevent a finding of confusing similarity for purposes of the first element of the Policy. See section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain ("gTLD") (e.g., ".com", ".info", ".one") may typically be disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark SIEMENS HEALTHINEERS, pursuant to the Policy, paragraph 4(a)(i).

C. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use the mark SIEMENS HEALTHINEERS, that the Respondent is not commonly known by the disputed domain name and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

Under the Policy, "where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element". See section 2.1 of the [WIPO Overview 3.0](#).

As provided in the annexes to Complaint, the disputed domain name has been used to fraudulently impersonate the Complainant in order to try to unduly obtain a wire transfer from one of its customers. In this regard, panels have categorically held that the use of a domain name for illegal activity (such as swindle, fraud, identity theft, phishing and impersonation) can never confer rights or legitimate interests in a respondent. See section 2.13 of the [WIPO Overview 3.0](#).

For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

D. Registered and Used in Bad Faith

The Complainant trademarks SIEMENS HEALTHINEERS andSIEMENS predate the disputed domain name registrations.

The disputed domain name was registered on April 18, 2022, and incorporates the Complainant's distinctive mark with a common misspelling, the reversal of two letters, in a clear example of typosquatting.

Furthermore, as shown above, in the day of the registration of the disputed domain name, the Respondent engaged in impersonation of the Complainant, and attempted a fraud against the Complainant and one of its customers.

Such conduct leads to infer that the Respondent had previous knowledge of the Complainant, its staff and customers, and that at the time of registering the disputed domain name, it targeted the Complainant.

The findings that the Respondent targeted and impersonated the Complainant compel the Panel to conclude that the Respondent used the disputed domain name in bad faith to impersonate the Complainant, and take unfair advantage of the Complainant's trademark, attempting to mislead a third party.

Panels additionally view the provision of false contact information (or an additional privacy or proxy service) underlying a privacy or proxy service as an indication of bad faith. See section 3.6 of the [WIPO Overview 3.0](#).

Previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar to a third party's well-known trademark can, by itself, constitute a presumption of bad faith for the purpose of Policy. See section 3.1.4 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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-healthnieers.com> be transferred to the Complainant.

For purposes of properly executing this order, the Panel also directs the Registrar's attention to Annex 1 to Decision hereto that identifies the person listed as registrant of the disputed domain name in the formal record of registration, and orders that the disputed domain name, <siemens-healthnieers.com>, be transferred from that person to the Complainant.

The Panel directs the Center that Annex 1 shall not be published along with this Decision.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: July 25, 2022