

## **ADMINISTRATIVE PANEL DECISION**

Inventio AG v. DNS Admin, Buntai LTD  
Case No. D2023-2468

### **1. The Parties**

The Complainant is Inventio AG, Switzerland, internally represented.

The Respondent is DNS Admin, Buntai LTD, Switzerland.

### **2. The Domain Name and Registrar**

The disputed domain name <schinderelevatros.com> is registered with Key-Systems GmbH (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 7, 2023. On June 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 9, 2023, 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 (Redacted For privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 12, 2023, 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 amendment to the Complaint on June 14, 2023.

The Center verified that the Complaint together with the amendment to 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 June 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 11, 2023. The due date was extended until July 15, 2023, as requested by the Respondent on July 11, 2023. On July 14, 2023, the Center notified the parties of the possibility to suspend the proceedings to explore settlement options. On the same date, the Complainant notified the Center that it wished to continue with the proceedings. The Respondent did not submit any response. Accordingly, the Center notified Commencement of Panel Appointment Process on July 25, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on July 31, 2023. 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 Complainant is a wholly owned subsidiary of Schindler Holding AG, Switzerland, (hereinafter “Schindler”) and owner of Schindler’s intellectual property worldwide, including the trademark SCHINDLER. Schindler was established in Switzerland in 1874, has over 1000 branch offices in more than 100 countries and is one of the world’s leading providers of elevators, escalators, moving walkways and their maintenance and modernization services.

The Complainant owns numerous trademarks with the element SCHINDLER *inter alia*, the Swiss Trademark Registration no. 671451 SCHINDLER, registered on April 1, 2015, with priority of December 2, 2014, in classes 6, 7, 9, 37, 38, 42, 45 and the International Trademark Registration no. 1265628 SCHINDLER, registered on January 1, 2016, with Swiss priority of December 2, 2014, in classes 6, 7, 9, 37, 38, 42, 45, designating *inter alia* the United States of America.

The Complainant also holds the domain name <group.schindler.com>.

The disputed domain name was registered on March 8, 2023.

On March 30, 2023, and on April 26, 2023, the Complainant sent two cease and desist letters to the Respondent but did not receive any response.

The disputed domain name resolves to an inactive site.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends as follows:

The disputed domain name is confusingly similar to the SCHINDLER trademark in which the Complainant has rights because it consists of (i) the element “schinder” which differs from the Complainant’s trademark SCHINDLER only in the missing consonant “l” and (ii) “elevatros”, which is a misspelling of “elevators”, whereby both are direct references to Schindler’s core business. These misspellings are not sufficient to avoid confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been licensed or authorized by the Complainant to use this trademark, is not commonly known by the disputed domain name, and there is no evidence of the Respondent’s use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services.

The disputed domain name was registered and is being used in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its well known trademark SCHINDLER at the time it registered the disputed domain name, and because the term “elevatros” is a direct reference to the Complainant’s business. This clearly indicates that the Respondent was fully aware of the Complainant’s trademark SCHINDLER and Schindler’s business and that the Respondent saw an opportunity to exploit on Complainant’s products / services by registering the disputed domain name, e.g. by exploiting Schindler’s reputation / goodwill established over many years, by misleading of potential customers or preventing the Complainant from obtaining the relevant domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

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

### **A. Identical or Confusingly Similar**

The Panel is satisfied that the Complainant owns trademark registrations for its SCHINDLER trademark.

The Panel notes that the disputed domain name incorporates the SCHINDLER trademark. The omission of the letter "I" and the addition of the term "elevatros" (which is an obvious misspelling of "elevators") do not prevent a finding of confusing similarity under the Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

The addition of the generic Top-Level Domain ("gTLD") ".com" in the disputed domain name is a standard registration requirement and as such is disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.1.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's mark SCHINDLER.

The first element of paragraph 4(a) of the Policy has been met.

### **B. Rights or Legitimate Interests**

The Complainant states it has not authorized the Respondent to use the trademark SCHINDLER, that the Respondent is not known by the disputed domain name and that before notice of the dispute, there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in good faith. The Panel does not see any contrary evidence from the record.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The second element of paragraph 4(a) of the Policy has been met.

### **C. Registered and Used in Bad Faith**

The Complainant has shown to the satisfaction of the Panel that its SCHINDLER trademark is well-known.

In the view of the Panel, noting that the Complainant's trademark predates the registration of the disputed domain name and the fact that the element "elevatros" in the disputed domain name obviously refers to the

Complainant's products, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's well-known trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The disputed domain name resolves to an inactive site. However, the Respondent's passive holding of this disputed domain name qualifies as use in bad faith in this case (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) and the [WIPO Overview 3.0](#), section 3.3). In this regard, the Panel notes the reputation of the Complainant's trademark SCHINDLER and the Respondent's failure to respond to the cease and desist letters sent by the Complainant. Furthermore, in the circumstances of this case it is inconceivable that the Respondent could make any good faith use of the disputed domain name.

The Panel thus finds that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

## **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 <schinderelevatros.com> be transferred to the Complainant.

*/Andrea Mondini/*

**Andrea Mondini**

Sole Panelist

Date: August 14, 2023