

ADMINISTRATIVE PANEL DECISION

INVENTIO AG v. Cand Map

Case No. DCO2023-0031

1. The Parties

The Complainant is INVENTIO AG, Switzerland, internally represented.

The Respondent is Cand Map, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <schindlerelevator.co> 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 20, 2023. On March 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 22, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 27, 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 amended Complaint on March 28, 2023.

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 sent notification to the Respondent of the Complaint, and the proceedings commenced on March 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 18, 2023. The Respondent did not submit any response. Accordingly, the Center has sent notification of the Respondent’s default on April 25, 2023.

The Center appointed Petra Pecar as the sole panelist in this matter on May 10, 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 subsidiary of Schindler Holding AG, responsible for the Schindler Group's intellectual property worldwide, including the SCHINDLER trademark. The Schindler Group is a leading global provider of elevators, escalators, moving walks and related equipment as well as a provider of maintenance and modernization services, and has 70,000 employees, 1,000 branches in more than 100 countries, and recorded over CHF 11.3 billion in 2022 revenue.

The SCHINDLER trademark was firstly registered in Switzerland in 1925. The Complainant owns around 1,100 domain names and 2,300 active SCHINDLER trademarks, mainly related to elevators and associated services in over 150 countries. The Complainant among others holds the International Trademark Registration for SCHINDLER, No. 1265628, granted on May 1, 2015, with Swiss priority of December 2, 2014, in Classes 6, 7, 9, 11, 19, 35, 37, 38, 42, 45, designating *inter alia* the United States.

The disputed domain name was registered on September 8, 2022, and does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant asserts that the Respondent's registered disputed domain name, <schindlerelevator.co>, is partially identical and confusingly similar to the Complainant's SCHINDLER trademark. This trademark is entirely included in the disputed domain name and represents its distinguishing element. The disputed domain name consists of two parts: i) the distinctive core "Schindler", and ii) "elevator", which indicates the business sector of the Complainant.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name <schindlerelevator.co>. The Complainant argues that the Respondent is not using the disputed domain name for a legitimate noncommercial or fair use, nor for a *bona fide* offering of goods and services. Additionally, the Complainant asserts that they have not licensed or otherwise authorized the Respondent's use of the SCHINDLER trademark. Despite the Complainant's attempts to contact the Respondent and sending a trademark abuse complaint to the Registrar on September 12, 2022, no reply or resolution has been achieved. The Registrar, in response to the complaint, has removed all the SCHINDLER related advertisements from the parking page. Based on these actions and lack of response from the Respondent, the Complainant asserts a *prima facie* case, requiring the Respondent to provide concrete evidence of rights or legitimate interests in the disputed domain name.

The Complainant contends that the disputed domain name <schindlerelevator.co> was registered and is being used in bad faith. The term "schindler" standing as a trademark, trade name, and company name has been confirmed by previous panels in multiple WIPO UDRP cases.

The inclusion of the SCHINDLER trademark in the disputed domain name, coupled with a reference to its core business, signals the Respondent's awareness of the Complainant's business and an intention to exploit its established reputation. The Respondent's actions, such as registering a domain name aligned with the Complainant's field, deceiving potential customers, and impeding the Complainant from securing the relevant domain name, suggest bad faith.

Despite the non-use of the disputed domain name, it does not negate the possibility of a bad faith finding under the doctrine of passive holding. Multiple factors suggest that the disputed domain name <schindlerelevator.co> is held in bad faith, including the global recognition and uniqueness of the SCHINDLER trademark, the Respondent's lack of evidence indicating any actual or contemplated good-faith use, and the lack of a plausible good faith use for the disputed domain name. The Complainant argues that the Respondent has registered and used the disputed domain name <schindlerelevator.co> in bad faith.

B. Respondent

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

6. Discussion and Findings

Even if the Respondent did not file a Response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

"A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- (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 by the Respondent in bad faith.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must, firstly, establish rights in a trademark or service mark and, secondly, establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.2.1). The Panel finds that the Complainant has provided evidence of trademark rights of registration for the SCHINDLER trademark, demonstrating that it has rights in the SCHINDLER trademark.

Furthermore, it is the view of this Panel that the addition of the term "elevator", which directly indicates to the Complainant's business sector, and the country code Top-Level Domain ("ccTLD") ".co" of the disputed domain name does not affect the finding of confusing similarity between the Complainant's trademark and the disputed domain name. Such additional terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) do not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark, in accordance with section 1.8 of the [WIPO Overview 3.0](#). Finally, it is a well-accepted practice by UDRP panels that a TLD (such as the ccTLD ".co" in this case), is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark (see section 1.11.1 of the [WIPO Overview 3.0](#)). Accordingly, the Panel determines that the disputed domain name is confusingly similar to the Complainant's trademark.

In accordance with the above, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its trademark rights and showing that the disputed domain name is confusingly similar to its SCHINDLER trademark.

B. Rights or Legitimate Interests

Under this second element of the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the

burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is generally deemed to have satisfied the second element, as set out in paragraph 4(a)(ii) of the Policy (see also [WIPO Overview 3.0](#), section 2.1).

Moreover, the Policy provides guidance to the respondents on how to demonstrate rights or legitimate interests in the domain name. In particular, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name, including: (i) use of the domain name “in connection with a *bona fide* offering of goods or services”; or (ii) demonstration that the respondent has been “commonly known by the domain name”; or (iii) “legitimate noncommercial 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”.

The Panel acknowledges that the Respondent has failed to submit a response, thus, they have not refuted the Complainant’s allegations or provided any data or proof to suggest any legitimate rights or interests. There is no affiliation between the Respondent and the Complainant, and at no point did the Complainant grant the Respondent permission to use its SCHINDLER trademark as a part of the disputed domain name.

The Complainant also asserts that the Respondent has no established recognition or affiliation with the disputed domain name. No authorization, licensing, or permission has been granted to the Respondent by the Complainant to register or use of a domain name that includes its SCHINDLER trademark. Furthermore, there is no evidence to suggest that the Respondent is making any good faith use of the disputed domain name, either for commercial or noncommercial purposes.

Numerous previous UDRP panels have found that the Complainant’s SCHINDLER trademark is well-known (see for example *Inventio AG v. Chen Ki*, WIPO Case No. [D2018-0916](#)). The SCHINDLER trademark’s reputation is also evidenced among Forbes Magazine’s Global 2000 2021: Top Multinational Performers, where it notably ranked #1034 in the Global 2000 2022, #1012 in Sales, #1194 in Profit, and #813 in Market value. This endorsement by a renowned publication such as Forbes emphasizes the SCHINDLER trademark presence and performance in the global marketplace.

Furthermore, in 2022, Brand Finance recognized SCHINDLER as the 22nd among the top 50 most valuable Swiss brands, reinforcing its position as a significant contributor to the Swiss brand landscape. Earlier, in 2016, Interbrand’s Best Swiss Brands ranking estimated SCHINDLER’s brand value at CHF 1.886.000.000, and placed it at the 14th position, highlighting the firm’s steady growth and the strength of its brand.

In conclusion, the SCHINDLER trademark, company name, and trade name possess significant goodwill and reputation, as confirmed by its extensive worldwide trademark registrations and recognition by leading industry observers such as Forbes, Brand Finance, and Interbrand.

Furthermore, the Panel notes that the nature of the disputed domain name (reproducing the Complainant’s trademark in its entirety) combined with the term “elevator” which refers to the Complainant’s activity, indicates the Respondent’s intention to create a risk of affiliation or association with the Complainant and its trademark. See section 2.5.1 of the [WIPO Overview 3.0](#).

Having in mind the well-known status of the Complainant’s trademark, the Panel agrees with the Complainant’s argument that it is indeed difficult to conceive a plausible circumstance in which the Respondent could legitimately use the disputed domain name.

The Panel therefore finds that the Complainant has made a *prima facie* demonstration of the Respondent’s lack of rights or legitimate interests in respect of the disputed domain name, which has not been rebutted by the Respondent, and that the Complainant has accordingly established the second element of the Policy in accordance with paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires the Complainant to demonstrate that the Respondent registered and is using the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.1, states that “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”.

The Policy describes several non-exhaustive circumstances demonstrating a respondent’s bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when, 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 trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

Upon review of the evidence of the Complainant, the Panel concludes that it is improbable that the Respondent was unaware of the Complainant’s SCHINDLER trademark during the registration process of the disputed domain name. This assessment takes into account that the disputed domain name registration took place eight years after the Complainant’s SCHINDLER trademark registration. In addition, a straightforward trademark register exploration or even a rudimentary online inquiry prior to the registration of the disputed domain name would have effectively enlightened the Respondent regarding the existence and use of the SCHINDLER trademark by the Complainant as a source identifier. Furthermore, the particular composition of the disputed domain name, namely the inclusion of the Complainant’s trademark with the descriptive term “elevator”, insinuates the Respondent’s awareness of the Complainant and its product offerings. Given these factors, the Panel finds that the Respondent made the registration of the disputed domain name in bad faith.

The Complainant has presented evidence affirming that the disputed domain name leads to an inactive website. Nevertheless, this does not automatically exclude the potential existence of bad faith intentions in the acquisition and holding of the disputed domain name. Based on the circumstances of this case, the Panel finds that the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding (see [WIPO Overview 3.0](#), section 3.3).

Furthermore, the Complainant’s SCHINDLER trademark should be observed as a trademark that is sufficiently distinctive and that enjoys certain level of reputation. The Respondent has failed to provide any response to the Complaint and has therefore failed to provide any justification for the registration and use of the disputed domain name. Based on the foregoing reasons, the Panel finds that the disputed domain name in the present case should be observed as use in bad faith.

When taken together with the Respondent’s failure to respond to the Complaint and to explain itself in the course of these proceedings, the only reasonable inference, in the opinion of the Panel, is that the Respondent registered and is using the disputed domain name in bad faith in terms of the Policy.

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 <schindlerelevator.co> be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: May 24, 2023