

## **ADMINISTRATIVE PANEL DECISION**

**Siemens AG, Siemens Trademark GmbH & Co. KG v. Amir Ali, Saud Bashir**  
Case No. D2022-0262

### **1. The Parties**

The Complainants are Siemens AG and Siemens Trademark GmbH & Co. KG, Germany, represented by Müller Fottner Steinecke Part mbB, Germany.

The Respondents are Amir Ali and Saud Bashir, United States of America.

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

The disputed domain name <siemens-service-center-dubai.com> (“first disputed domain name”) and <siemens-service-center.com> (“second disputed domain name”) are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 26, 2022. On January 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the first disputed domain name. On January 26, 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 January 28, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint.

The Complainants filed an amended Complaint and requested consolidation of the first and second disputed domain names on February 8, 2022. On February 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the second disputed domain name. On February 14, 2022, the Registrar transmitted by email to the Center its verification response confirming the registrant and providing the contact details.

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 Respondents of the Complaint, and the proceedings commenced on February 23, 2022.

On February 25, 2022, the Complainants requested that an additional domain name <siemens-service-dubai.com> be added to the Complaint.

In accordance with the Rules, paragraph 5, the due date for Response was March 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondents’ default on March 17, 2022.

The Center appointed John Swinson as the sole panelist in this matter on March 24, 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.

On March 31, 2022, the Complainants informed the Center that in respect of another dispute concerning <siemens-service-dubai.com>, the subject of pending WIPO Case No. [D2022-0969](#), the Complainants were informed by the registrar in that case that <siemens-service-dubai.com> is owned by “Saud bashir” and was registered on February 14, 2022, shortly after the Complaint in the present dispute was filed.

#### **4. Factual Background**

The First Complainant, Siemens AG, is headquartered in Berlin and Munich, Germany, and is one of the world’s largest electrical engineering and electronics companies. The First Complainant was founded more than 150 years ago. The trademark rights of the First Complainant are partly registered by its affiliated trademark holding company, Siemens Trademark GmbH & Co. KG, which is the Second Complainant.

The Second Complainant owns trademark registrations for SIEMENS, including International Registration No. 637074 of March 31, 1995, covering more than 60 countries worldwide. (Unless otherwise specified, the Panel will hereinafter refer to the Complainants as the “Complainant”).

The Respondents did not file a Response, so little is known of the Respondents.

The first disputed domain name was registered on August 25, 2019. The second disputed domain name was registered on December 17, 2021.

In February 2022, the websites at the disputed domain names included the SIEMENS trademark, a similar design to each other and similar text such as: “Siemens Home Appliances Repair and Service Center in Dubai For Out of Warranty Repair Service” and “Siemens Service Center Dubai for Home Appliances Repair and Service”. At the present time, the second disputed domain name does not resolve to an active website.

#### **5. Parties’ Contentions**

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

In summary, the Complainant makes the following submissions:

The mark SIEMENS is famous. By virtue of long and extensive use, this mark belongs to the best known trademarks in the world today.

The Second Complainant owns trademark registrations for SIEMENS as referred to above in Section 4.

The disputed domain names are confusingly similar to the SIEMENS trademark. The addition of terms such as “service-center” does not avoid any consumer confusion.

The ordinary Internet users will think that the disputed domain names belong to the Complainants and that the websites provided under the disputed domain names are additional official websites of the Complainant.

The Respondents are not and have never been the Complainant’s representatives, employees or its licensees or otherwise authorized to use the trademark SIEMENS, that the Complainant does not have any connection with the Respondents, and that the Respondents are not using the disputed domain names in connection with a *bona fide* offering of goods or services. Further, the Respondents have not been commonly known with the disputed domain names.

The Respondents aim at misleadingly diverting the public (looking for a website of the Complainant or of their partners) to obtain orders for repair services. The Respondents’ websites do not accurately and prominently disclose the Respondents’ relationship with the Complainant as a third-party repair service. The Respondents rather reinforce the false image to be the original SIEMENS repair service for SIEMENS household appliances by using SIEMENS under the heading “contact data” pretending to be the “real” SIEMENS company repair service.

The Respondents’ websites reproduce the trademark SIEMENS in almost the same petrol colour and script as the Complainant’s stylized house mark.

The disputed domain names were registered in bad faith as the Respondents knew or should have known about the Complainant’s earlier rights on the trademark SIEMENS.

The overall evidence indicates that the Respondents’ choice of the disputed domain names was deliberate for their substantial similarity with the Complainant’s trademark and with the likely intention to benefit from the reputation and goodwill of the Complainant’s trademark, which denotes bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (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 respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The *onus* of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the 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.

## **A. Procedural Issues**

On February 2, 2022, the Complainant requested that this case (which was originally filed in respect of the

first disputed domain name) be consolidated with proceeding WIPO Case No. [D2022-0261](#) (which was filed in respect of the second disputed domain name). The Complainant did this after receiving Registrar verification in both cases. On February 8, 2022, the Complainant filed an amended Complaint in respect of both the first disputed domain name and the second disputed domain name.

On February 9, 2022, the Center wrote to the Complainant and stated: “We will proceed with the withdrawal of WIPO Case No. [D2021-0261](#) and the proceeding WIPO Case No. [D2021-0262](#) will continue in relation to both disputed domain names (<siemens-service-center.com> and <siemens-service-center-dubai.com>).”

The Panel considers that it was appropriate to consolidate these cases and decide the issues concerning both disputed domain names in this one case. This is because the contact email addresses in the Whois records are the same for both disputed domain names, both Whois records provide address details that are obviously incorrect and incomplete, both disputed domain names are registered with the same Registrar, and the content of the websites at the disputed domain names are very similar. See, for example, *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#); *Statoil ASA v. Perfect Privacy, LLC / Names Redacted*, WIPO Case No. [D2014-1417](#); and *Umicore v. Harold Gasa, John Conradie, Thandeka Zuma*, WIPO Case No. [D2020-1604](#).

Therefore, the Panel finds it appropriate to consolidate the Complaint as the circumstances in this case strongly indicate that the disputed domain names are subject to common control and that the consolidation would be fair and equitable to all parties, and there is no prejudice to any person in doing so. The Panel will in light of the foregoing consider the Respondents as one Respondent and thus will continue to refer to these as “Respondent” in singular.

On February 25, 2022, after notification of the dispute to the Respondent, the Complainant requested that an additional domain name <siemens-service-dubai.com> be added to the Complaint. This now appears to be a moot issue, because the Complainant has now commenced separate proceedings in respect of this domain name. That was a sensible approach, because the Panel was unlikely to add an additional domain name to this case after the notification of the Complaint to the Respondent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, section 4.12.2.

## **B. Identical or Confusingly Similar**

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant owns trademark registrations for SIEMENS.

The disputed domain names are confusingly similar to the SIEMENS trademark. The addition of additional words and hyphens to the Complainant's trademark does not prevent a finding of confusing similarity between the disputed domain names and the Complainant's trademark under the Policy.

Where the relevant trademark is recognizable within the disputed domain names, the addition of other letters or terms does not prevent a finding of confusing similarity under the first element. *Hostelworld.com Limited v. Contact Privacy Inc. / Shamlee Pingle*, WIPO Case No. [D2021-1849](#).

The Complainant succeeds on the first element of the Policy in relation to the disputed domain names.

## **C. Rights or Legitimate Interests**

For the second requirement, the Complainant must prove that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

(i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or

(ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or

(iii) [the Respondent] is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

The *onus* of proving this requirement, like each element, falls on the Complainant.

Previous UDRP panels have recognized the difficulties inherent in proving a negative, however, especially in circumstances where much of the relevant information is in, or likely to be in, the possession of the respondent. Accordingly, it is sufficient for a complainant to raise a *prima facie* case against the respondent under this head and an evidential burden of production will shift to the respondent to rebut that *prima facie* case.

The Complainant asserts that the Respondent is not and has never been one of the Complainant's representatives, employees or one of its licensees or otherwise authorized to use the trademark SIEMENS, that the Complainant does not have any connection with the Respondent, and that the Respondent is not using the disputed domain names in connection with a *bona fide* offering of goods or services. Further, the Complainant asserts that the Respondent has not been commonly known with the disputed domain names.

The Respondent is using the SIEMENS logo on the websites associated with the disputed domain names without permission. The Respondent misleads Internet users as to the relationship between the Respondent and the Complainant to give the false impression that the Respondent is part of the Complainant's corporate structure. For example, in one FAQ, the Respondent falsely states:

"Out of Warranty Repairs are carried out by our own locally based service partner's engineers around Dubai who carry out repairs on our behalf, *who are employed and trained by Siemens*, which gives them unrivalled knowledge and expertise with *our appliances*." (underlining added)

In short, the Respondent's use of SIEMENS is not *bona fide*.

The Panel considers that, based upon the above, the Complainant has established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain names and thereby the burden shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain names.

The Respondent has chosen not to file any Response. The Panel finds that the Respondent has failed to produce any evidence to establish its rights or legitimate interests in the disputed domain names.

Based on the evidence before the Panel, none of the circumstances listed in paragraph 4(c) apply in the present circumstances. Accordingly, the Panel finds that the Respondent has no rights or any legitimate interests in the disputed domain names.

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

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain names in bad faith.

In the present circumstances, the fact that the disputed domain names include the Complainant's famous SIEMENS trademark, and resolves to websites which mislead Internet users as to the Respondent's relationship with the Complainant, leads the Panel to conclude the registration and use of the disputed domain names is in bad faith.

The Respondent's conduct demonstrates the Respondent's knowledge of the Complainant and the Complainant's trademark. By using the Complainant's SIEMENS logo and referring to the Complainant's products on the Respondent's website makes it clear beyond doubt that the Respondent specifically knew of and targeted the Complainant. See *Fédération Française de Tennis (FFT) v. Daniel Hall, dotCHAT, Inc.*, WIPO Case No. [D2016-1941](#).

Moreover, the layout of the websites and the position of the photos on the Respondent's website are almost identical to the layout of the website run by the Complainant's licensee (BSH Group). See "www.siemens-home.bsh-group.com".

The Whois details for the disputed domain names provide no or false contact details of the Respondent. Given the covert nature of the Respondent's conduct – disclosing false contact details – and the lack of any response to the Complainant's claims, the inference of bad faith is strengthened.

The Respondent has not filed a Response and hence has not availed itself of the opportunity to present any case of good faith that it might have. The Panel infers that none exists. *Regal Funds Management Pty Limited v. WhoisGuard Protected, WhoisGuard, Inc. / John Clerk*, WIPO Case No. [D2020-2773](#).

The Panel finds that the Respondent has intentionally attempted to attract for commercial gain Internet users to its website by creating likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the website under paragraph 4(b)(iv) of the Policy. The Respondent's websites also could disrupt the business of the Complainant.

The Respondent's conduct in registering an additional domain name containing SIEMENS shortly after the filing of this Complaint, rather than responding to this Complaint, is further evidence of bad faith.

The Panel finds that the Respondent has both registered and used the disputed domain names in bad faith.

The Complainant succeeds on the third element of the Policy in relation to the disputed domain names.

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

*/John Swinson/*  
**John Swinson**  
Sole Panelist  
Date: April 6, 2022