

ADMINISTRATIVE PANEL DECISION

Inventio AG v. G Geri
Case No. D2023-1962

1. The Parties

The Complainant is Inventio AG, Switzerland, internally represented.

The Respondent is G Geri, India.

2. The Domain Name and Registrar

The disputed domain name <schindlerelevatorserviceinjubileehills.xyz> 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 May 2, 2023. On May 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 3, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 5, 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 May 9, 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 May 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 2, 2023.

The Center appointed Tuukka Airaksinen as the sole panelist in this matter on June 7, 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 (“Schindler”) and owner of Schindler’s intellectual property worldwide, including the trademark SCHINDLER. Schindler was established in Switzerland in 1874 and is a leading provider of elevators, escalators, moving walkways and their maintenance and modernization services.

The Complainant operates in more than 100 countries and has approximately 70.000 employees. In 2022, its revenues were over CHF 11.3 billion. The Complainant’s trademark SCHINDLER is registered *inter alia* as an International Registration No. 1265628 registered on May 1, 2015, designating many countries, including India.

The disputed domain name was registered on April 4, 2022 and at the time of the Decision, does not resolve to an active website. However, the Complainant claims that the disputed domain name used to resolve to a website offering similar elevator services pertaining to be the Complainant’s website allowing the Internet users to arrange for a service appointment in Jubilee Hills.

5. Parties’ Contentions

A. Complainant

The disputed domain name includes the Complainant’s trademark in its entirety combined with the terms “elevator service”, which is the Complainant’s core business, and “jubilee hills”, a wealthy neighborhood in Hyderabad, India, where the Complainant is offering its services.

The Complainant has not licensed or otherwise allowed the Respondent to use its trademark. The disputed domain name is not being used by the Respondent in connection with any *bona fide* offering of goods or services, nor is the Respondent making any legitimate noncommercial or fair use of the disputed domain name.

The Complainant’s trademark is well-known in the market. There is no doubt that the Respondent knew of the Complainant before the registration of the disputed domain name. The website previously used by the Respondent marketed itself as “Schindler Elevator Service in Jubilee Hills”. The Respondent’s intention was to mislead Internet users into believing that the website is the Complainant’s official website allowing the user to arrange for a service appointment of their elevators in Jubilee Hills. The Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

In order to obtain the transfer of a domain name, a complainant must prove the three elements of paragraph 4(a) of the Policy, regardless of whether the respondent files a response to the complaint or not. The first element is that the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. The second element a complainant must prove is that the respondent has no rights or legitimate interests in respect of the domain name. The third element a complainant must establish is that the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires that the Complainant establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. Consequently, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to this trademark.

According to section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), “[t]he applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”.

Furthermore, “where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements”. See section 1.8 of the [WIPO Overview 3.0](#).

The disputed domain name is confusingly similar to the Complainant’s trademark as it includes the Complainant’s trademark in its entirety combined with other words. These additions do not prevent confusing similarity between the Complainant’s trademark and the disputed domain name.

This means that the disputed domain name is confusingly similar to the Complainant’s trademark and hence the first element of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires that the Complainant establish that the Respondent has no rights or legitimate interests to the disputed domain name.

It is widely accepted among UDRP panels that once a complainant has made a *prima facie* showing indicating the absence of the respondent’s rights or legitimate interests in a disputed domain name the burden of proof shifts to the respondent to come forward with evidence of such rights or legitimate interests. If the respondent fails to do so, the complainant is deemed to have satisfied the second element of the Policy. See, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#), and section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has credibly submitted that the Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register the disputed domain name, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent has not made and is not making a legitimate noncommercial or fair use of the disputed domain name and is not commonly known by the disputed domain name in accordance with paragraph 4(c)(ii) of the Policy.

Moreover, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant’s trademark. See section 2.5.1 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Complainant has made a *prima facie* case that has not been rebutted by the Respondent. Considering the Panel’s findings below, the Panel finds that there are no other circumstances that provide the Respondent with any rights or legitimate interests in the disputed domain name. Therefore, the Panel finds that the second element of the Policy is fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant establish that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy provides that the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

“(i) circumstances indicating that [the respondent has] registered or has acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the respondent’s] documented out-of-pocket costs directly related to the domain name; or

(ii) [the respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or

(iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business or competitor; or

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent’s] website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] website or location or of a product or service on [the respondent’s] website or location.”

Considering that the Complainant’s trademark is clearly well known, the Respondent must have been aware of the Complainant and its trademark when registering the disputed domain name. See section 3.1.4 of the [WIPO Overview 3.0](#).

The disputed domain name does not resolve to an active website. See e.g., *Accenture Global Services Limited v. Domain eRegistration*, WIPO Case No. [D2018-1994](#). This, however, does not prevent the finding of bad faith under the doctrine of passive holding. See section 3.3 of [WIPO Overview 3.0](#).

Considering that the disputed domain name resolved to a website offering similar elevator services to the Complainant with an intent to associate with and target the Complainant, the Respondent has not responded to the Complaint, the Respondent has used a privacy service to conceal its identity, there are no obvious good faith or legitimate uses to which the inherently misleading disputed domain name may be put, the Panel considers, on balance of probabilities, that the disputed domain name has been registered and is being used in bad faith.

Therefore, the Panel finds that the third element of the Policy is fulfilled.

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 <schinderelevatorserviceinjubileehills.xyz> be transferred to the Complainant.

/Tuukka Airaksinen/

Tuukka Airaksinen

Sole Panelist

Date: June 21, 2023