

ADMINISTRATIVE PANEL DECISION

Siemens Trademark GmbH & Co. KG v. Lei Wang
Case No. DME2023-0013

1. The Parties

The Complainant is Siemens Trademark GmbH & Co. KG, Germany, internally represented.

The Respondent is Lei Wang, China.

2. The Domain Name and Registrar

The disputed domain name <siemens.me> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 9, 2023. On October 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 12, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 October 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 7, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on November 14, 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

According to information in the Complaint, the Complainant is a trademark holding company, licensing the trademarks at issue within the Siemens Group. The Complainant is a subsidiary of Siemens Aktiengesellschaft, which is the ultimate mother company of the Siemens Group. The turnover of the Siemens Group in 2022 was EUR 72 billion, and the group employs more than 300,000 people worldwide. Founded more than 175 years ago, the company is active, *inter alia*, in the fields of automation and control, power, transportation, logistics, information and communications, and medical technology.

The Complainant is the owner of various registered trademarks that consist of or include SIEMENS in various jurisdictions throughout the world, including the International trademark no. 637074 SIEMENS registered on March 31, 1995, covering 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 Siemens Group owns and uses various domain names consisting of the trademark SIEMENS, such as <siemens.com> and <siemens.eu>.

The disputed domain name was registered on November 28, 2022, and does not resolve to an active website. According to information with the Complaint, it was offered for sale on a third-party platform for USD 2,299.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical to the Complainant's earlier trademark SIEMENS. Since the addition of a country code Top-Level Domain ("ccTLD") after a domain name is technically required, it is well established that such element may be disregarded when assessing whether a domain name is identical or confusingly similar to a mark. Due to the high reputation of the trademark SIEMENS, the public will automatically recognize such trademark and will associate the disputed domain name with the Complainant.

As regards the second element, the Complainant argues that the Respondent is not and has never been one of the Complainant's representatives, employees or one of its licensees or is otherwise authorized to use the trademark SIEMENS. The Complainant does not have any connection with the Respondent. The disputed domain name is not currently in use. Previously, it was offered for sale for USD 2,299. The Complainant also argues that the disputed domain name used to belong to the Siemens Group, and more precisely to its regional subsidiary in Montenegro. The latter company ceased to exist in 2020, due to a reverse carve-out, where the Siemens Montenegro business was absorbed by Siemens Energy in Serbia. In the transitional period, the disputed domain name lapsed due to lack of renewal, and the Respondent took advantage of this occurrence and acquired the disputed domain name in 2022.

With respect to the third element, the Complainant contends that the unequivocal reputation of the Complainant makes it impossible to assume that the Respondent was not aware of the Complainant's business and that it chose to register the disputed domain name as a mere coincidence. As for the use of the disputed domain name in bad faith, the Respondent had put the domain for sale, for the price of USD 2,299. The Respondent has now removed the domain from sale, and the disputed domain name shows no content. However, even the passive holding of a domain name amounts to use in bad faith. Moreover, the past ownership of the disputed domain name by the Complainant makes the risk of confusion with the Complainant and its trademarks even higher.

B. Respondent

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

6. Discussion and Findings

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark 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 in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name is identical to the Complainant's trademark SIEMENS. The ".me" ccTLD is typically disregarded for the purposes of the comparison with the Complainant's trademarks on the basis that it is a mere technical requirement for registration.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, 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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

There is no evidence in the record that the Respondent is currently using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. Rather, the disputed domain name does not currently resolve to an active website.

The Respondent is an individual named “Lei Wang” and there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

Furthermore, the nature of the disputed domain name carries a high risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

According to the unrebutted assertions of the Complainant, its SIEMENS trademark was widely used in commerce well before the registration of the disputed domain name. The disputed domain name is identical with the Complainant’s trademark. Under these circumstances, it is most likely that the Respondent was aware of the Complainant’s trademark at the registration date of the disputed domain name. The Respondent provided no explanations for why the Respondent registered the disputed domain name.

Therefore, given the circumstances in the case the Panel considers that the Respondent must have had knowledge of the Complainant’s rights in the SIEMENS trademarks when it registered the disputed domain name and it has intentionally created likelihood confusion with the Complainant’s trademarks and website in order to attract Internet users for its own commercial gain, as envisaged by paragraph 4(b)(iv) of the Policy and/or to disrupt the business of the Complainant.

The Panel finds that passive holding of the disputed domain name does not in the circumstances of this case prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the disputed domain name. According to unrebutted information in the Complaint, the Complainant’s trademark has been used for a long period of time. The Respondent has registered the disputed domain name that is identical to the Complainant’s trademark. The Panel further notes that according to the unrebutted evidence put forward by the Complainant, the disputed domain name was put for sale at a minimum price of USD 2,299. This is an additional element that sustains in the Panel’s view bad faith registration and use of the disputed domain name. Based on the evidence and circumstances of this case, the Panel finds that the Respondent’s passive holding of the disputed domain name does not prevent a finding of registration and use in bad faith.

Based on the available record, the Panel finds the third element of the Policy has been established.

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.me>, be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: November 28, 2023