

## **ADMINISTRATIVE PANEL DECISION**

Siemens AG, Siemens Trademark GmbH & Co. KG v. Williams wire, 23 Nipco Co., Inc  
Case No. D2022-0948

### **1. The Parties**

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

The Respondent is Williams wire, 23 Nipco Co., Inc, United States of America.

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

The disputed domain name <siemens-healthlineers.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 17, 2022. On March 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 18, 2022, 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 April 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 21, 2022. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent's default on April 26, 2022.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on May 6, 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.

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

The first Complainant, Siemens AG, headquartered in Berlin and Munich, is one of the world's largest companies providing innovative technologies and comprehensive know-how to benefit customers in 190 countries.

Founded more than 150 years ago, the first Complainant is active in various fields, such as Medicine, Automation and Control, Power, Transportation, Logistics, Information and Communications, *etc.*

The trademark rights of the first Complainant are partly registered by their affiliated trademark holding company Siemens Trademark GmbH & Co. KG, the second Complainant.

The Complainants are the holders of several trademark registrations as the following:

- European Union Trademark Registration No. 015400849 of November 21, 2018, for SIEMENS HEALTHINEERS in the name of the second Complainant covering goods and services in international classes 1, 5, 7, 9, 10, 16, 25, 35, 36, 37, 38, 41, 42, and 44.

- International registration No. 1320512 for HEALTHINEERS of March 10, 2016, in the name of Siemens Healthcare GmbH, a company which is related to the Complainants and belongs to the SIEMENS group. This registration covers almost 40 countries worldwide and claims protection for goods and services in classes 01, 05, 09, 10, 16, 25, 35-38, 41, 42, and 44.

- International registration No. 637074 for SIEMENS of March 31, 1995, in the name of the second Complainant covering more than 60 countries worldwide and claiming protection for goods and services in international 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 disputed domain name was registered on March 10, 2022. The disputed domain name does not resolve to an active website.

#### **5. Parties' Contentions**

##### **A. Complainants**

By the Complaint, the Complainants assert that:

- The disputed domain name is confusingly similar to the Complainants' trademarks SIEMENS, HEALTHINEERS and SIEMENS HEALTHINEERS as it contains the trademark SIEMENS in its entirety as well as the element "healthineers" which is confusingly similar to the trademark HEALTHINEERS.

- The disputed domain name is only different from the Complainants' HEALTHINEERS trademark in just one letter, the consonant "l" which replaces the letter "i" in the trademark. The letter "l" is visually very close to the letter "i". Phonetically, this element is almost identically pronounced, which makes the disputed domain name confusingly similar to all three trademarks of the Complainants.

- Due to the strong reputation of the trademark SIEMENS, the public will automatically recognize it and will associate the disputed domain name with the Complainants, especially, as the Complainants' affiliated company Siemens Healthcare GmbH is the owner of the domain names <siemens-healthineers.com> and <siemens-healthineer.com> which are visually almost identical to the disputed domain name.

- Using the disputed domain name, the Respondent may divert the Internet users searching for the Complainants' website, who may mis-type the Complainants' SIEMENS HEALTHINEERS trademark, to other sites.

- In addition, the disputed domain name is currently not in use. When entering the disputed domain name users can read the announcement “Die Website ist nicht erreichbar” (“This site can’t be reached”).
- There is no indication, that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, he has not been commonly known by the disputed domain name, and there is nothing to suggest that the Respondent would not aim at misleadingly diverting consumers and Internet users searching for the Complainants’ website to other sites.
- The disputed domain name was registered in bad faith as the Respondent knew or should have known about the Complainants’ earlier rights to the trademark SIEMENS and through registering the disputed domain name which incorporates the famous trademark SIEMENS in its entirety and a slight variation only of the Complainants’ other trademark, the Respondent intended to use the strong reputation of these trademarks in order to mislead the public and to cause damage to the Complainants in disrupting their business.
- In particular, the disputed domain name was registered because of its high similarity to the Complainants’ trademark SIEMENS and with the intention of taking predatory advantage of the goodwill of the Complainants in order to divert Internet traffic intended for the Complainants away to the Respondent’s potential website or e-mail address.
- The Complainants already own and use for business purposes various domain names containing the term “Siemens”, such as <siemens.com>, <siemens.eu>, <siemens.de>, <siemens-healthineers.com>, and <siemens-healthineer.com>.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

The Panel finds that the Complainants have established their rights in the SIEMENS, HEALTHINEERS and SIEMENS HEALTHINEERS trademarks.

The Panel finds that the disputed domain name reproduces the Complainants’ trademarks with a slight misspelling and adds the generic Top-Level Domain “.com”.

The disputed domain name is only different from the Complainants’ SIEMENS HEALTHINEERS trademark in one letter, the consonant “l” which replaces the letter “i” in “Healthineers”. The letter “l” is visually very close to the letter “i”. Phonetically, this element is almost identically pronounced as “healthineers”.

The Panel considers that the misspelling of “Healthineers” is a typical case of “typosquatting” where the infringing domain name is merely one letter different from the Complainants’ trademark.

According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), paragraph 1.9, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.

Consequently, this Panel finds that the disputed domain name is confusingly similar to the Complainants’ trademarks, in which the Complainants have rights, and therefore the first element of paragraph 4(a) of the Policy is established.

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

For the second element of the Policy, based on the UDRP practice, the Complainants have to show that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainants make a *prima facie* showing, the burden of production of evidence shifts to the Respondent, with the overall burden of proof always remaining on the Complainants. See section 2.1 of the [WIPO Overview 3.0](#).

Considering the Complainants' contentions, it is the opinion of this Panel that the Complainants have made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. Moreover such showing has not been rebutted by the Respondent, as the Respondent did not reply to the Complainants' contentions.

There is no doubt that given the strong reputation of the trademark SIEMENS, the public will automatically recognize this trademark and will associate the disputed domain name with the Complainants, especially as the Complainants' own trademarks for HEALTHINEERS and the Complainants' affiliated company Siemens Healthcare GmbH is the owner of the domain names <siemens-healthineers.com> and <siemens-healthineer.com. The said domain names are visually almost identical to the disputed domain name.

This Panel agrees with the Complainants that by registering the disputed domain name the Respondent's intent is to divert the Internet users searching for the Complainants' website, who may mis-type the Complainants' SIEMENS HEALTHINEERS trademark, to other sites.

From the existing evidence, there is no indication and nothing to suggest that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services or the Respondent can make any legitimate noncommercial or fair use of the disputed domain name.

Not being able to identify any grounds for establishing rights or legitimate interests of the Respondent in the disputed domain name, it is the opinion of this Panel that the Complainants have sufficiently demonstrated, without the same being rebutted, that the Respondent lacks any rights or legitimate interests in the disputed domain name and consequently, the second element of the paragraph 4(a) of the Policy is, therefore, established.

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

For the analysis under the third element of the Policy, this Panel notes that, given the high similarity of the disputed domain name to the Complainants' trademark SIEMENS HEALTHINEERS the Respondent knew or should have known about the Complainants' earlier rights in that trademark and deliberately registered the domain name to use the strong reputation throughout the world of that trademark in order to confuse the public and to cause damage to the Complainants in disrupting their business.

While the disputed domain name does not actively resolve to a website, the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of the [WIPO Overview 3.0](#). Noting the Respondent's incorporation of the well-known and distinctive SIEMENS trademark, the general typosquatting nature of the disputed domain name as compared to the SIEMENS HEALTHINEERS trademark, and Respondent's silence in light of the Complaint and this proceeding, the Panel finds that the non-use of the disputed domain name does not prevent a finding of bad faith.

Consequently, in light of the above-mentioned circumstances in the present case, the Panel finds that the Complainants have established the third element under paragraph 4(a)(iii) 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 <siemens-healthineers.com> be transferred to the Complainant.

*/Dr. Beatrice Onica Jarka/*

**Dr. Beatrice Onica Jarka**

Sole Panelist

Date: May 20, 2022