



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE (HONG KONG OFFICE)

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Decision Submission

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Decision ID	DE-0500053
Case ID	HK-0500067
Disputed Domain Name	www.schroders-sg.com
Case Administrator	Dennis CAI
Submitted By	M Scott Donahey
Participated Panelist	M Scott Donahey
Date of Decision	07-09-2005

The Parties Information

Claimant	Schroders
Respondent	Katherine Stewart

Procedural History

The complainants in this case are Schroder Investment Management (Singapore) Ltd, a limited company organized under the laws of Singapore, whose address is 65 Chulia Street, #46-00 OCBC Centre, Singapore 049513, which uses the domain name <schroders.com.sg> in its business, and its parent company Schroders plc, the trademark owner, which uses the domain name <schroders.com> in its business ("Complainants"). Their authorized representative in these proceedings is Karina Tang.

The respondent is Katherine Stewart, 29 George Street, Bristol null, BS1 5QT, United Kingdom ("Respondent"). Respondent has not appointed any representative in these proceedings.

The domain name in dispute is <schroders-sg.com>. The Registrar of the domain name is Eternal Solutions, No. 31 Jalan Utama 2/18, Taman Perindustrian Puchong Utama, Puchong Selangor, 47100 Malaysia (the "Registrar").

On 7 July 2005, pursuant to the Uniform Domain Name Dispute Resolution Policy ("the Policy"), the Rules for the Uniform Domain Name Dispute Resolution Policy ("the Rules") and Hong Kong International Arbitration Centre Supplemental Rules ("the HKIAC Supplemental Rules"), the Complainants submitted a complaint in the English language to the Hong Kong International Arbitration Centre (the "HKIAC"), an office of the Asian Domain Name Dispute Resolution Centre and elected this case to be dealt with by a one-person panel. On 7 July 2005, Hong Kong International Arbitration Centre sent to the complainant by email an acknowledgement of the receipt of the complaint and reviewed the format of the complaint for compliance with the Policy, the Rules and the HKIAC Supplemental Rules. All correspondence to and from the HKIAC described herein was in the English language.

On 9 July 2005 the HKIAC notified the Respondent of the commencement of the action. On 14 July 2005, HKIAC sent Respondent a formal notification of the commencement of the action, requiring any response to be filed within twenty calendar days.

On 8 August 2005, the HKIAC notified the parties that the Respondent had failed to submit a timely Response.

On 13 August Respondent sent the HKIAC an email indicating a complete lack of interest in the proceedings and no intention of participation therein.

Since the Respondent did not file a response in accordance with the time specified in the Rules the HKIAC Supplemental Rules, and the Notification, the HKIAC informed Complainants and Respondent by email about the default, stating that, as Respondent did not file a response within the required time, the HKIAC would appoint the panelist to proceed to render the decision, in the absence of a response by Respondent.

The HKIAC notified the parties that the Panel in this case had been selected, with M. Scott Donahey acting as the sole panelist. The Panel determines that the appointment was made in accordance with Rules 6 and Articles 8 and 9 of the Supplemental Rules.

On 31 August 2005, the Panel received the file from HKIAC.

Proper Complainants

Although the complaint in this matter designated only Schroders Investment Management (Singapore) Limited as the Complainant, it is clear from the body of the complaint that the representative represents both the designated complainant and Schroders plc, the owner of the trademarks. Accordingly, the Panel exercises its discretionary power under Rule 10 (a) to permit this matter to proceed in the name of the two Complainants described above.

Factual Background

For Claimant

Complainants are the Singapore subsidiary of Schroders plc, the registered owner of the trademark SCHRODERS and one of the largest multinational financial groups. Complainants have been using the SCHRODERS mark in Singapore since at least 5 September 1966 and the parent company holds numerous trade mark registrations around the world. Complaint, Annexes 2, 3, and 4. Complainants have continuously and extensively advertised the Trademarks in Singapore since 1996.

Complainants produced a letter from the Securities Commission of New Zealand, attaching a copy of an unsolicited investment offer letter purporting to be from Schroders Investment Management (Singapore) Ltd., featuring prominently the SCHRODERS trademark on the letterhead, and giving a slightly different, but strikingly similar address to that of Complainants. Complaint, Annex 8. Complainants Singapore entity has an address of 65 Chulia Street, #46-00 OCBC Centre, Singapore 049513. The spurious offer letter gives an address of 66 Chulia Street, #46-00 OCBC Centre, 049153 Rep. of Singapore. The offer letter also gives an email address at the domain name at issue, info@schroders-sg.com. The individual who authored the letter appears to be profiting from the confusion of Complainants' trademark with the domain name at issue and the business being conducted by the individual in direct competition with the services offered by Complainants.

For Respondent

Respondent has failed to file a response in this matter.

Parties' Contentions

Claimant

Complainants asserts that the domain name at issue is identical and confusingly similar to Complainants' marks, in that the domain name at issue is comprised of the SSCRODERS mark and the two letter country code for Singapore connected by a hyphen.

Complainants have made no further allegations under the UDRP, in that Respondent has failed to allege that Respondent has no rights or legitimate interests in respect of the domain name or that Respondent's domain name has been registered in bad faith and is being used in bad faith. Normally these would be fatal deficiencies for which the Complaint would be denied. However, Complainants have asserted facts which suggest that Respondent not only has no rights or legitimate interests in respect of the domain name and that Respondent's activities are intended to mislead the public into thinking that the public is dealing with Complainants and that this is being done for commercial gain.

Respondent

The respondent did not file a response within the stipulated time.

Findings

Identical / Confusingly Similar

Paragraph 15(a) of the Uniform Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.”

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- 1) that the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- 2) that the Respondent has no rights or legitimate interests in respect of the domain name; and
- 3) that the domain name has been registered and is being used in bad faith.

Identical or Confusing Similarity

The Panel finds that the domain name <schroders-sg.com> is confusingly similar to the Complainants’ mark SCHRODERS in that it incorporates that mark into the domain name. The hyphenated addition of the two letters corresponding to the Singapore country code only increases the confusion, as Complainants have registered and are using the domain name <schroders.com.sg> in their business. Moreover, cases have long held that the addition of a geographic term to a mark in a domain name does not alter the fact that the domain name is confusingly similar to the mark. Wal-Mart Stores, Inc. v. Walmarket Canada, D2000-0150 (addition of “Canada” to WALMART).

Rights and Legitimate Interests

Complainant has in a credible way alleged facts would cause a reasonable person to conclude that Respondent has no rights or legitimate interests in respect of the domain name at issue. Respondent has failed and refused to respond and to show that Respondent has any rights or legitimate interests in respect of the domain name at issue. This entitles the Panel to infer that Respondent has no rights or legitimate interests in respect of the domain name at issue. *Alcoholics Anonymous World Services, Inc. v. Lauren Raymond*, WIPO Case No. D2000 0007; *Ronson Plc v. Unimetal Sanayi ve Tic. A.S.*, WIPO Case No. D2000 0011. Accordingly, the Panel finds that Respondent has no rights or legitimate interests in respect of the domain name.

Bad Faith

Complainants have alleged that someone has used the domain name at issue as part of an email address in correspondence designed to intentionally mislead the public into believing that Complainants are the source of the communications and that the public is dealing with Complainants. The documentary evidence produced indicated that members of the public have sent money in response to such communications, believing that they are investing with Complainants. The use of the domain name was not on a web site, or even in an email, but on a written communication transmitted by post. Nonetheless, the Panel regards this use as “use” under paragraph 4(b)(iv) of the policy, and finds that such use is in bad faith as set out in that provision.

Status

www.schroders-sg.com

Domain Name Cancel

Decision

For all of the foregoing reasons, the Panel decides that the domain name registered by Respondent is confusingly similar to the marks in which the Complainants have rights, that the Respondent has no rights or legitimate interests in respect of the domain name at issue, and that the Respondent’s domain name has been registered and is being used in bad faith. Accordingly, and as the Complainants have requested cancellation of the domain name at issue as the remedy, pursuant to Paragraph 4(i) of the Policy, the Panel requires that the registration of the domain name <schroders-sg.com> be cancelled.

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