



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Fall Nummer: D2004-00100

Entscheidung vom 21. April 2004

1. The Parties

The Complainant is SNR R..., France.
The Respondent is SNR S..., C/O R. J., United States of America.

2. The Domain Name and Registrar

The disputed domain name is <snr.com> and is registered with Network Solutions, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed by e-mail with the WIPO Arbitration and Mediation Center (the "Center") on February 9, 2004. Hard copies were received on February 16, 2004.

On February 10, 2004, the Center transmitted by email to the Registrar a request for registrar verification in connection with the domain name at issue.

On February 12, 2004, the Registrar transmitted by email to the Center its verification response *inter alia* confirming that the Respondent is listed as the registrant for said domain name, providing the contact details for the administrative, billing, and technical contact for said registration, confirming that the status of the registration was active on that date and that the language of the Service Agreement is English.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy"), 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").

On February 24, 2004, the Center formally notified the Respondent of the Complaint, in accordance with the Rules, paragraphs 2(a) and 4(a). The proceedings commenced on February 24, 2004. In accordance with the Rules, paragraph 5(a), the due date for the Response was March 15, 2004.

On March 9, 2004, the Response was filed with the Center.

The Complainant subsequently delivered unsolicited additional submissions to the Center and applied to have same admitted in these administrative proceedings. In support of this application the Complainant argued that the administrative panels in the following cases have accepted unsolicited supplemental filings *viz.*

World Wrestling Federation Entertainment Inc (WWFE) .v. M. de Rooij, WIPO Case No. D2000-0290, *National Australia Bank Limited v Quality Systems Consulting - QSC Pty Ltd*, WIPO Case No. D2000-0765, *Benzer v. FutureSoft Consulting Inc. and Sunil Bhatia*, WIPO Case No. D2000-1648, *Avon Products Inc. v. Jongsoo Lee*, WIPO Case No. D2001-0272, *Minnesota Mining and Manufacturing Company v. Mark Overbey*, WIPO Case No. D2001-0727, *Cosmos European Travels AG v. Eurotech Data Systems Hellos, Ltd.*, WIPO Case No. D2001-0941, *Momo s.r.l. v. Andreoni, Inc.*, WIPO Case No. D2001-0961, *The British Council v. Mr. Li Yen Chun*, WIPO Case No. D2001-0997, *Chantelle v. Marvin Anhalt*, WIPO Case No. D2001-1181, *Delikommat Betriebsverpflegung Gesellschaft m.b.H. v. Alexander Lehner*, WIPO Case No. D2001-1447, *Trans Continental Records, Inc. v. Compana LLC*, WIPO Case No. D2002-0105, *The Leading Hotels of the World Ltd. v. Online Travel Group*, WIPO Case No. D2002-0241, *HER MAJESTY THE QUEEN, in right of her Government in New Zealand, as Trustee for the Citizens, Organizations and State of New Zealand, acting by and through the Honourable Jim Sutton, the Associate Minister of Foreign Affairs and Trade v. Virtual Countries, Inc.*, WIPO Case No. D2002-0754, *SES Astra S.A. v. Design Technology Ltd. (t/a Transcom ISP)*, WIPO Case No. D2002-1078.

On March 22, 2004, the Center appointed James Bridgeman as the sole panelist in this matter. 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. The Administrative Panel finds that it is properly constituted.

On March 31, 2004, having considered the submissions of the Parties and in particular having considered the Complainants request to have supplemental submissions admitted, the Panel issued Administrative Panel Procedural Order No. 1 wherein the Administrative Panel directed *inter alia* as follows:

"1. The Respondent may make submissions as to whether the Complainant's said supplemental brief should be admitted by this Administrative Panel.

2. In the interests of expedition, the Respondent shall at the same time and in a separate document furnish this Administrative Panel with an additional brief containing the Respondent's submissions and any and all supporting evidence dealing with the matters raised in the Complainant's said unsolicited additional brief."

On April 9, 2004, the Respondent made further submissions in accordance with said Directions.

On April 14, 2004, the Complainant subsequently sought liberty to address further additional comments to the Administrative Panel. As outlined later in the decision, the application to file a further supplemental filing was refused.

4. Factual Background

The Complainant is an international bearings manufacturer and is a subsidiary of Renault SAS, one of the main car manufacturers in the world. The Complainant's head office is in Annecy (France). The Complainant has numerous production units and industrial shareholdings in Europe and the United States of America including five industrial plants in Europe, one in Brazil and one in Romania.

The Complainant is the owner of numerous relevant trademark registrations. The earliest registration being in France *viz.* the word mark SNR registered on January 26, 1962, registration no. 1402 022 in respect of goods in class 7 and renewed on December 12, 1996. The Complainant also owns French trademark registration number 1 414 388, SNR devise registered on July 24, 1967, in respect of goods in classes 7, 9 and 12 and renewed on February 6, 1997. A more recent registration for the word mark SNR has been made in France on April 25, 2000, in respect of goods in classes 4, 7 and 9.

The Complainants first international trademark registration dates back to July 12, 1947. On this date, the Complainant registered its word mark SNR in respect of goods in class 7 in Germany, Austria, Benelux, Bosnia, Bulgaria, Croatia, Egypt, Spain, Hungary, Italy, Liechtenstein, Macedonia, Morocco, Monaco, Portugal, Romania, St. Marin, Serbia and Montenegro, Slovakia, Slovenia, Switzerland, Czechoslovakia and Tunisia.

This registration was renewed under the Madrid System on July 12, 1987.

In the USA, where the Respondent and its Administrative Contact are domiciled, the Complainant is the owner of trademark registration number 876 459 of the word mark SNR, registered in respect of goods in class 7 on January 10, 1968, and renewed on September 9, 1999.

Certain facts relating to the present *status* of the Respondent are in dispute. The Complainant submits that it no longer exists as a legal entity. The Respondent has submitted evidence in the form of a certificate of incorporation issued by the Secretary of State of the State of Texas, certifying that the Respondent was established on May 23, 1994.

The Respondent's USA registered trademark no. 2,330,587 was filed on July 29, 1997, claiming first use in commerce since July 1, 1994, and registered on March 21, 2000, in international class 42 in respect of engineering services namely engineering services related to the architecture and design of semiconductor devices, not related to microlithographic photosensitive resist compositions used in the manufacture of semiconductors in class 42 (U.S. CLS. 100 and 101).

5. Parties' Contentions

A. Complainants Submissions

In accordance with Paragraph 4(i) of the Policy, the Complainant requests this Administrative Panel to issue a decision that the said domain name in dispute <snr.com> be transferred to the Complainant.

The Complainant submits that said domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. This claim is based on the numerous registrations of the SNR trademark owned by the Complainant described above.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the domain name.

The Complainant submits that after an unsuccessful attempt to reach a settlement with the Respondent by phone, the Complainant sent on November 20, 2003, a cease and desist letter to Respondent's Administrative Contact inviting Respondent to transfer the domain name to the Complainant against payment of a lumpsum of USD 2500 for registration and maintenance expenses. A copy of same has been provided to this Administrative Panel as an annex to the Complaint.

The Complainant states that it received a reply to this letter from the Administrative and Billing Contact for the registration on December 29, 2003, in which he sought to justify the holding of the domain name as follows

"I obviously feel that my rights to the domain name is secure since I have maintained and used "snr.com" continuously as my business and personal domain since 1994. The SNR name stands for **Sandra 'n Richard** so it is an important family identifier. I am currently actively using the domain and will be expanding the business I am doing with the domain in the future so I have no intention at this time of relinquishing it."

The Complainant has the impression that the website is only a front for other activities of the Administrative and Billing Contact, and that the Respondent corporation does not exist. The Respondent's web page established at the <snr.com> address has very little content having only some pictures of the family of the Administrative and Billing Contact and a "family tree" with the names of his children.

In view of the Complainant's important intellectual property rights at stake and the fact that the Administrative and Billing Contact apparently intends to "(expand) the business (he is) doing with the domain in the future", the situation is serious and unacceptable for the Complainant.

The Complainant submits that maintaining a family website under a domain name which has no credible connection with the name of the family in question and which is registered in the name of a non-existent company does not represent a legal interest prevailing over that of the Complainant. The Complainant therefore submits that the Administrative and Billing Contact can not invoke any legitimate rights for keeping the disputed domain name.

The Complainant submits that

- The Respondent is a non-existent company;
- a non-existent company cannot make any *bona fide* offering of goods or services;
- a non-existent company cannot be commonly known by the domain name in question and
- the Respondent is not in a position to invoke any fair use of the domain name; quite to the contrary, it interferes with the Complainant's commercial rights and ultimately tarnishes its long existing trademarks.

Furthermore, the Complainant submits that the Respondent does not own any trademark and has never been licensed by Complainant.

The Complainant alleges that the said domain name was registered and is being used in bad faith.

In this regard, the Complainant submits that the fact that the Respondent indicated a non-existent company as holder of the domain name and added a wrong fax number in its registration information is in itself sufficient proof of bad faith. The use of false contact information in the Respondent's initial registration application is evidence that Respondent registered the domain name in bad faith (See Chanel v. 1, WIPO Case No. D2003-0218; Action Instruments, Inc v. Technology Associates, WIPO Case No. D2003-0024; Wachovia Corporation v. Peter Carrington, WIPO Case No. D2002-0775; Royal Bank of Scotland Group v. Stealth Commerce, WIPO Case No. D2002-0155; Oxygen Media, LLC v. Primary Source, WIPO Case No. D2000-0362; Home Director, Inc. v. Home Director, WIPO Case No. D2000-0111).

Furthermore, it is obvious that the Respondent (or more precisely the Administrative and Billing Contact of the Respondent) knew or should have known (through a trademark search) of the Complainant's existence and also of the Complainant's well-known trademark when he registered the said domain name. The Complainant's trademark rights have existed for many decades in the USA where the Administrative and Billing Contact is domiciled.

The Complainant submits that it is a well-established principle under WIPO case law (see for instance Six Continents Hotels, Inc. v. Seweryn Nowak, WIPO Case No. D2003-0022; Nokia, Inc. v. B. B. de Boer, WIPO Case No. D2000-1397) and under Sec. 2 of the Policy, that when someone registers a domain name, he represents and warrants to the registrar that, to his knowledge, the registration of the domain name will not infringe the rights of any third party. It is highly probable that the Respondent had the Complainant's trademark in mind when registering the domain name in issue. This is suggested by the fact that the Complainant's trademark is well known and the Respondent resides in the USA, an important place of business for the Complainant. Actual knowledge of the Complainant's pre-existing trademark at the time of registration of the domain name is a factor supporting bad faith (see, for instance, RRI Financial, Inc. v. Ray Chen, WIPO Case No. D2001-1242; Infospace, Inc. v. Siavash Jimmy Behain, et al., WIPO Case No. D2000-1631; Expedia, Inc. v. European Travel Network, WIPO Case No. D2000-0137).

Since the Administrative and Billing Contact of the Respondent is apparently willing to "(expand) the business (he is) doing with the domain in the future", there is a substantial risk that he is sitting on the domain name and waiting for the highest offer to sell the domain name or to engage in a business under the name SNR with which the Complainant would not wish to be associated. The Administrative and Billing Contact will not be in a position to lawfully engage in any business without entering into conflict with Complainant's rights in its well known trademark.

Consequently, any future business of the Administrative and Billing Contact using said domain name will inevitably create a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site.

Moreover, the Complainant submits that the Respondent's ownership of said domain name registration is likely to prevent the owner of the trademark or service mark from reflecting the Complainant's registered trade mark in a corresponding domain name. The Respondent seeks to justify the registration of the disputed domain name by claiming that it represents and acronym for the personal names "Sandra n' Richard". As various administrative panels have stated in their decisions, a domain name is not only an address, it is also a personal identifier. Many addresses have been available to the Respondent, which would not in any way impinge on the trademark rights of the Complainant (See Ha'aretz Daily Newspaper Ltd. v. United Websites, Ltd; WIPO Case No. D2002-0272).

For all these reasons and in accordance with the Policy, the Complainant submits that the Respondent has registered and is using the domain name <snr.com> in bad faith.

The Complainant further respectfully requested the administrative panel to admit a second exchange of briefs in the event that the Respondent should file a Response.

B. Respondent's Submissions

In the Response, the Respondent claims to have a legitimate interest in respect of the said domain name since the Respondent was incorporated in 1994, under the name SNR Semiconductor Inc. The Respondent has furnished this Administrative Panel with a copy of its certificate of incorporation and articles of incorporation.

The Respondent has used the said domain name to provide services in the field of semiconductor design since 1994, and has been the owner of USA registered service mark registration number 2,330, 587 SNR dated March 21, 2000. The Respondent has used the said domain name to provide services in the field of semiconductor design since 1994, and has provided a print out of what it claims to have been the content of said web site in the month of October 2000. The Respondent submits that this content clearly indicates that the Respondent used said domain name for a *bona fide* offering of goods and services.

The Respondent has offered detailed downloadable product information on many of its products on said web site. The Respondent has provided an example of such downloadable information as an annex to the Response viz. specification sheet 96Db, 48KHz, Delta Sigma Stereo DAC, used for audio applications.

The Respondent further provided a copy of a corporate brochure downloadable from the Respondent's said web site for prospective customers to better understand the Respondent's abilities to provide goods and services in the semiconductor industry.

The Respondent has also placed advertisements in trade magazines offering goods and services using the <snr.com> domain name. One such advertisement appeared periodically in "EETimes", a trade magazine with a circulation base of over 160,000 electrical engineering professionals. A copy of said advertisement has been provided as an annex to the Response.

The Respondent has used the said domain name continuously for personal and business communications since 1994. Print outs of e-mail communications provided as an annex to the Response relate to e-mail communications at the <snr.com> address communications since 1994.

In October 2000, the Respondent entered into an exclusive agreement with a third party which does not permit the Respondent to offer goods or services to other third parties for the term of the agreement. In conjunction with said agreement, the Respondent converted the web site at said <snr.com> address to a family web site. On the expiry of said exclusive agreement, the Respondent will be permitted to recommence the use of said domain name to offer goods and services.

The Respondent refutes the Complainant's allegations that the Respondent is a non-existent company. It was founded and incorporated in Texas in 1994.

The Respondent refutes the Complainant's allegations that the Respondent does not have any trademark as it has been the registered owner of said US registered service mark.

The Respondent furthermore refutes the Complainant's allegations that the Respondent has not made any *bona fide* offering of goods and services.

As to the allegation of bad faith, the Respondent registered said domain name in good faith in 1994, in order to provide goods and services to the semiconductor industry.

The Respondent's offering of goods or services does not in any way compete with the Complainant's business interest in manufacturing bearings.

The Respondent refutes the Complainant's suggestion that it "is highly probable that the Respondent had the Complainant's trademark in mind when registering the Domain Name." The Respondent had no knowledge of the Complainant's mark when registering said domain name. The Complainant "SNR Roulements" is not a well known subsidiary of Renault SAS outside France, and at the time of registration in 1994, the Respondent had never heard of the Complainant or the Complainant's trademark.

The Respondent further refutes the Complainant's suggestion that the Respondent is "sitting on his domain and waiting for the highest offer to sell the domain ". The Respondent has no interest in selling said domain name registration. The Complainant has offered the Respondent USD 2,500 for the rights to said domain name. The Respondent responded to said offer by stating "I still have no desire to sell `snr.com' ". Many other parties in addition the Complainant have been interested in purchasing said domain name registration. The Respondent has never indicated any desire to sell said domain name to any of them.

The Respondent further refutes the Complainant's suggestion that any future business of the Respondent "will create a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site." The Respondent has used the said <snr.com> domain since 1994, to offer goods and services to the semiconductor industry or as a family web site. There has been no confusion between the use of the "SNR" domain and the Complainant's mark. The Respondent has not and will not use the "SNR" domain to engage in any business which will conflict with the Complainant's stated business of manufacturing bearings.

Finally the Respondent further rejects the Complainant's suggestion that the "Respondent's domain name is likely to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name." The Respondent's service mark for the letters "SNR" is reflected in the Respondent's domain name. The Complainant possesses the domains <snr.fr> and <snrbearings.com> which adequately reflect the Complainant's trademark and business interest in a corresponding domain name.

C. Complainant's Supplemental Filing

In the additional submissions, the Complainant submits that the Respondent has submitted incorrect and misleading information to this Administrative Panel. The Complainant submits that in his communication to the Complainant dated December 29, 2003, the Administrative and Billing Contact of the Respondent stated that he is using said domain name for a "family website" indicating that the letters "SNR" stand for "Sandra 'n Richard" . He did not mention at all that SNR has once been used by a company SNR Semiconductor Inc. nor did he state that such company still exists. (*quod non est*).

It came therefore to the Complainant's great surprise that the Respondent now indicates in its Response that SNR Semiconductor Inc. is an existing company holding the service mark "SNR" and therefore be entitled to own the domain name.

The Complainant conducted a brief investigation on SNR Semiconductor Inc.'s company record to ascertain the crucial information as to whether the registrant of said domain name is an existing entity or not.

The Respondent is hiding an important fact from the Administrative Panel *viz.* that the Respondent corporation was merged into another corporation *viz.* Silicon Laboratories Inc. in October 2000. The effect of the merger is that the two corporations became one. Said Silicon Laboratories is the surviving entity and the Respondent no longer exists. The assets registered in the name of the Respondent became, by operation of law, assets of said Silicon Laboratories Inc.

The Complainant submits as evidence for this merger some excerpts from the "10-K form" of the US Securities and Exchange Commission dated December 30, 2000, in particular pages 20, 31 and 60.

The legal consequences of a merger are reflected in Article 5.06 of the applicable Texas Business Corporation Act which has been submitted by the Complainant as an annex to its submissions.

The merger has also been the subject of a press release from said Silicon Laboratories dated October 3, 2000, and a copy of which is also annexed to the submissions.

Finally, the Complainant submits that the Respondent's Certificate of Incorporation of 1994, is also misleading. An up to date copy of the public record as provided by the Secretary of State of Texas shows the merged *status* of the Respondent. It follows that the registrant of the domain name in dispute no longer exists, neither legally nor factually.

Moreover, the Respondent's statement that it is the holder of said service mark SNR in the USA is also wrong. The real and true holder of the trademark in question is said Silicon Laboratories. Indeed, the trademark was transferred to said Silicon Laboratories by operation of law, at the moment of the merger. Apparently, the Respondent intentionally tries to profit from the fact that - as it is often the case in the context of a merger - the surviving entity forgot to modify the entry in the trademark register relying on the fact that it is the new holder by operation of law.

The Respondent has submitted copies of documents described as: "E-mails from 1994 until 2004, indicating Respondent is commonly known as using the "SNRdomain name". Here again, the Respondent tries to mislead the Administrative Panel. Indeed, most of the produced e-mails are of personal character and the e-mails between 1999 and 2004, do not show at all that Respondent is using the domain name in dispute for e-mails in the context of the Respondent's alleged business activity.

Besides that, receiving e-mails *vía* an e-mail address connected to a domain name does not establish that the Respondent is "commonly known" under the said domain name.

The Respondent has stated that it has used the said <snr.com> domain name to provide services in the field of semiconductor design since 1994. The references in the Response to products sold by the Respondent are references to the products sold by the Respondent prior to the merger. If they are still being sold, they would be sold by Silicon Laboratories.

The Respondent's commercial activities are of no relevance since they were prior to the said merger.

The Respondent's reference to an "exclusive agreement which does not allow Respondent to offer goods or services to third parties for the term of the agreement" is incomprehensible, all the more that the Respondent does not submit this alleged agreement as exhibit nor any other document corroborating its statement. Consequently, the Complainant invites the Panel to disregard this paragraph.

The Respondent's argument that it had no knowledge of Complainant's trademark when registering said <snr.com> domain name is hardly credible in view of the well-known character of Complainant's SNR trademark.

The Respondent furthermore has stated that it will not use said <snr.com> domain name to engage in any business which will conflict with Complainant's business. In view of the many incorrect allegations made by the Respondent mentioned above, the Complainant has doubts as to the credibility of this statement. The Complainant asserts however that in view of the well-known character of the Complainant's trademark and its blocking effect on any trademark class, the Respondent will not be in a position to use the said domain name without creating an obvious conflict with the Complainant's trademark.

The Complainant submits that the Respondent's misleading statements as shown above amount to bad faith.

In their decisions previous administrative panels have held that bad faith is demonstrated if a respondent provides false information about his address and telephone number (see Chanel v. 1, WIPO Case No. D2003-0218; Action Instruments, Inc v. Technology Associates, WIPO Case No. D2003-0024; Wachovia Corporation v. Peter Carrington, WIPO Case No. D2002-0775; Royal Bank of Scotland Group v. Stealth Commerce, WIPO Case No. D2002-0155; Oxygen Media, LLC v. Primary Source, WIPO Case No. D2000-0362; Home Director, Inc. v. Home Director, WIPO Case No. D2000-0111). If this opinion is correct (see also Respondent's false fax number; Complaint, para. 7), it must all the more be true that the incorrect indication of the registrant amounts to bad faith, i.e. in the present case where it is alleged that the domain name holder is a non-existent entity.

Moreover, the Complainant submits that the Respondent has not submitted any valid argument as to legitimate rights for holding the Domain Name.

D. Respondent's Supplemental Filing

The most relevant elements of the Respondent's further submissions is its statement that the Complainant is feigning surprise that the Respondent is a well known company holding the SNR trademark and therefore entitled to the domain name <snr.com>. The Complainant has been aware of the Respondent's existence since 1997, when the Respondent engaged legal counsel to deal with the Complainant's threatened legal action and the Complainant stopped pursuing the <snr.com> domain name at that stage.

The Complainant now acknowledges the existence of the Respondent but is endeavouring to mislead this Administrative Panel by claiming that whereas the SNR trademark became the property of Silicon Laboratories Inc. in the merger, the domain name did not. The Respondent submits that the Complainant is unwilling to make this acknowledgement because if Silicon Laboratories Inc. owned both the SNR mark and the domain name, it would amount to a legitimate interest in respect of said domain name.

6. Discussion and Findings

Preliminary Issues relating to application to file and additional brief.

As the Respondent has not made any submissions relating to the admissibility of the Complainant's additional brief, but has addressed the substantive issues raised therein, this Administrative Panel has decided to consider the Complaint, the Response, the Complainants additional brief and the Respondents submissions

made pursuant to the Administrative Panel Procedural Order No. 1. As both parties have had the opportunity to fully state their respective cases the Complainant's further application for liberty to file yet another submission is refused.

A. Identical or Confusingly Similar

The domain name <snr.com> is clearly identical to the Complainant's registered trademark SNR. This trademark has been registered by the Complainant in many jurisdictions including the USA where the Respondent was established.

B. Rights or Legitimate Interests

The present *status* of the Respondent has not been clearly established by either the Complainant or the Respondent. It would appear from the submissions that the Complainant's belief is that the Respondent no longer exists as a separate entity but has been subsumed into another corporation by way of merger.

While this has not been expressly denied by the Respondent, the Respondent has not clarified the situation either. The Complainant submits that the Respondent merged with another entity. It would appear that the Respondent takes the view that the Respondent entered into an exclusive agreement with a third party. Despite having been given two opportunities to do so, the Respondent has not submitted the alleged "exclusive agreement" or any other document corroborating the existence of such agreement.

All in all, the Respondent has been very economical with information as to its present *status*.

Given that, even with two exchanges of submissions, the present *status* of the Respondent has not been clarified, on the balance of probabilities the indications are that the Respondent no longer exists as a separate legal entity, that the assets of the Respondent are now owned by another entity namely Silicon Laboratories Inc. but that the Administrative and Billing Contact continues to control the said domain name, to use it for his family purposes and to treat this domain name as his own.

It would appear from the evidence that the Respondent did at one time both own and use both the trademark SNR and the domain name <snr.com> for *bona fide* commercial purposes. This amounted to rights and legitimate interest in said domain name.

The Respondent's submissions are that the Respondent has used the said <snr.com> domain name since 1994, to offer goods and services to the semiconductor industry or as a family web site. There is no evidence to the contrary.

There is also no evidence that the successor in title, if any, to the Respondent's rights does not continue to have such rights and legitimate interest in said domain name. It would seem to follow from the Complainant's argument that the post-merger surviving entity is the successor in title to the Respondent's rights in both the SNR service mark and the said <snr.com> domain name.

Given the limitations of the UDRP procedure, it is not possible to ascertain whether or not the Respondent still exists or if it no longer exists following a merger, whether the Administrative and Billing Contact of the Respondent or said Silicon Laboratories Inc. is entitled to the ownership of the domain name registration.

Given the decision made under the third element, it is not necessary to reach a conclusion on this point.

C. Registered and Used in Bad Faith

More importantly, the Complainant has furthermore failed to establish that the said domain name was registered in bad faith.

This Administrative Panel does not accept that, in the circumstances of the present case, the fact that the Respondent appears to have provided an incorrect facsimile number in its registration information is in itself sufficient proof of bad faith.

Furthermore there is no evidence that any use to date of said domain name amounts to an infringement of the Complainant's trademark rights. The present use of said domain name as the address of a family web site is no such infringement and it is difficult to imagine any conflict between the Respondent's use of said domain name to market services related to the architecture and design of semiconductor devices and similar services would infringe the rights of a ball bearing manufacturer.

The evidence is that the domain name in dispute was registered in good faith in 1994, by the Respondent's corporation. While it is no longer being used for commercial purposes, there is no reason to disbelieve the Respondent's submission that it is now being legitimately used as a family website.

7. Decision

For all the foregoing reasons, the Complaint is denied.

(Sole Panelist)