

ADMINISTRATIVE PANEL DECISION

AB Electrolux v. Ana Peter
Case No. D2023-0191

1. The Parties

The Complainant is AB Electrolux, Sweden, represented by SILKA AB, Sweden.

The Respondent is Ana Peter, Italy.

2. The Domain Name and Registrar

The disputed domain name <electroluxprofessional.com> is registered with WEDOS Internet, a.s. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 16, 2023. On January 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 17, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 17, 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 January 18, 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 January 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 13, 2023.

The Center appointed Andrea Jaeger-Lenz as the sole panelist in this matter on February 20, 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 Swedish multinational appliance manufacturer and one of the leading producers of appliances and equipment for kitchen and cleaning as well as floor care products. The Complainant is owner of the brand ELECTROLUX, which is protected by a large portfolio of trademarks registered in many jurisdictions around the world, including but not limited to the following registrations (Annex 9 to the Complaint):

- United States of America (“United States”) Trademark registration No. 0562427 ELECTROLUX (word), registered on July 29, 1952, in Class 37.
- United States Trademark registration No. 0248774 ELECTROLUX (word), registered on October 30, 1928, in Class 11.
- European Union Trade Mark registration No. 000077925 ELECTROLUX (word), registered on September 16, 1998 in Classes 3, 7, 8, 9, 11, 16, 20, 21, 35, and 37.
- European Union Trade Mark registration No. 003405644 ELECTROLUX (with device), registered on May 4, 2005, in Classes 3, 7, 8, 9, 11, 21, 25, 35, 37, and 39.

In addition, the Complainant registered the domain name <electroluxprofessional.com> on July 2, 2004, which is one of the domain names under which it establishes its online presence and which hosts a website displaying information about the Complainant and its products.

The disputed domain name <electroluxsprofessional.com> was registered on May 26, 2022. It does not resolve to an active website, but is associated with mail servers that enable the Respondent to use it for creating email addresses composed with “@electroluxsprofessional.com” (Annex 18 to the Complaint).

5. Parties’ Contentions

A. Complainant

The Complainant contends that all three requirements stated in paragraph 4(a) of the Policy are met in the present case.

According to the Complainant, it was established in 1919, and, well over 100 years later, it had sales of SEK 116 billion and about 48,000 employees around the world. ELECTROLUX is the strongest brand of the Complainant, which it claims to be commonly ranked among the most valuable and strongest brands in the world. The Complainant points to its extensive worldwide activities (Annex 8 to the Complaint) and the number of UDRP decisions in which the well-known character of its trademark ELECTROLUX has been recognized.

The Complainant contends that the disputed domain name is confusingly similar to its well-known ELECTROLUX trademark. The Complainant submits that the disputed domain name incorporates the Complainant’s trademark in its entirety, together with the generic term “professional” and the letter “s”, which can be seen as a typographical error when typing the domain name <electroluxprofessional.com> of the Complainant. This suggests that the disputed domain name resolves to a website relating to goods or services which are specifically sold by the Complainant. Thus, in the Complainant’s view, it is more than

likely that Internet users would be confused into believing that the disputed domain name is somehow affiliated to or owned by the Complainant.

The Complainant argues that the Respondent has no license or otherwise authorization to use the ELECTROLUX trademark. Further, he or she has no rights or legitimate interests in the disputed domain name, nor any rights in the trademark of the Complainant, nor owns any identical or similar marks to that of the Complainant and that the term “electroluxprofessional” has no meaning in the English language. Finally, the Respondent is not making a legitimate noncommercial use of the disputed domain name, as it does not resolve to an active website, not did it in the past (Annexes 6 and 16 to the Complaint). Accordingly, the Respondent cannot have been commonly known under the disputed domain name.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. Given the longstanding and widespread use made by the Complainant of ELECTROLUX, it is inconceivable that the Respondent would have been unaware of the Complainant’s trademark at the time of registration and in particular points to the disputed domain name being a typosquatting variant of one of its domain names. The Respondent could have known about the Complainant’s trademark right by a simple online trademark search or Google search. According to the Complainant the characteristics of the Respondent’s passive holding of the disputed domain name amount to use as well in bad faith according to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 3.3. In addition, the association of mail servers that enable the creation of email addresses with “@electroluxprofessional.com” suggest that a use for spamming of phishing activities may be imminent.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4 (a) of the Policy, the Complainant must prove that each of the following three elements is present:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (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.

In the following, the Panel will discuss in consecutive order whether each of these requirements are met.

A. Identical or confusingly similar

On the first element, the test of identity or confusing similarity under the Policy, paragraph 4(a)(i) is limited in scope to a direct comparison between the Complainant’s trademark and the textual string which comprises the disputed domain name.

In this case, the Complainant has provided evidence that it owns registered trademark rights in the denomination ELECTROLUX (Annex 9 of the Complaint). The Panel agrees that the disputed domain name contains the trademark ELECTROLUX in its entirety. The addition of the term “professional” nor the addition of an “s” between ELECTROLUX and “professional” prevent a finding of confusing similarity between the disputed domain name and the trademark in which the Complainant has rights, as it is recognizable in the disputed domain name. If the relevant mark is recognizable in the disputed domain name, the addition of other terms will not prevent a finding of confusing similarity under the first element (see [WIPO Overview 3.0](#), section 1.8; see *Fashion Nova v. Blue Face*, WIPO Case No. [D2022-1581](#)).

Moreover, the generic Top-Level Domain (“gTLD”) “.com” does not affect the confusing similarity in any way due to the fact that a gTLD is viewed as a standard registration requirement and, thus, usually not taken into consideration under the first element analysis. For the purposes of assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy, it is therefore permissible for the Panel to ignore the gTLD (section 1.11 of [WIPO Overview 3.0](#), see also *Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *G4S Plc v. Noman Burki*, WIPO Case No. [D2016-1383](#); *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#)). Thus, the Panel shall disregard the “.com” gTLD included in the disputed domain name.

Based on the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s ELECTROLUX trademark within the meaning of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

On the second element, under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

However, it is consistent case-law of UDRP panels that it is sufficient for a complainant to make a *prima facie* case showing that the respondent has no rights or legitimate interests in a disputed domain name in order to place the burden of production on the respondent (see e.g. *Credit Agricole S.A. v. Dick Weisz*, WIPO Case No. [D2010-1683](#); *Champion Innovations, Ltd. v. Udo Dussling (45FHH)*, WIPO Case No. [D2005-1094](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#); *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#)).

The Panel notes that with respect to paragraph 4(c)(i) of the Policy, there is no evidence in the record that the Respondent, before any notice of the dispute, used or prepared to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services.

The Panel further notes that with respect to paragraph 4(c)(ii) of the Policy, there is no evidence that indicates that the Respondent has ever been commonly known by the disputed domain name or has acquired trademark rights in a name corresponding to it.

Additionally, with respect to paragraph 4(c)(iii) of the Policy, there is no evidence that the Respondent has made, and is making, a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue.

On the contrary, the Complainant has not authorized, licensed or permitted in any way the Respondent to register or use the disputed domain name. This finding is supported by the fact that the Respondent failed to file a response within the proceedings before the Panel. As far as failure to file a response is concerned, it is for a complainant to prove its case, as there may be good reasons why an honest respondent may decide not to prepare and file such document. But where allegations such as those levied by the Complainant in the Complaint are being made, one would expect any honest respondent to positively deny those allegations (see *The Commissioners for HM Revenue and Customs v. Tyrone Jackson*, WIPO Case No. [D2018-0298](#)).

Consequently, the Panel finds that the Respondent’s default in refuting the *prima facie* case made by the Complainant is sufficient to establish a lack of rights or legitimate interests of the Respondent in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

On the third element, under paragraph 4(a)(iii) of the Policy, a complainant has to establish that the disputed domain name has been registered and is being used in bad faith by the respondent.

The Complainant's rights in the trademark ELECTROLUX predate the Respondent's registration of the disputed domain name by far, which was registered on May 26, 2022. Based on the evidence provided by the Complainant regarding the longstanding and substantial use and reputation of its ELECTROLUX, and the absence of any evidence to the contrary on the part of the Respondent, the Panel agrees with the Complainant that it is inconceivable that the Respondent had not been aware of the Complainant's trademarks at the time of registration of the disputed domain name.

Moreover, the Panel finds that the evidence submitted by the Complainant shows that the Respondent has been using the disputed domain name in bad faith. Even though the disputed domain name is only passively held, the totality of the circumstances of the case are such that the passive holding amounts to a registration and use in bad faith under the [WIPO Overview 3.0](#), section 3.3. In this finding the Panel takes into consideration the well-known character of the ELECTROLUX trademark, the fact that the Respondent has likened the disputed domain name to a domain name actually registered and used by the Complainant, merely inserting an "s" into <electroluxprofessional.com> in order to form the disputed domain name by including a common typographical error when typing a domain name into an Internet browser. Furthermore, the fact that the disputed domain name is associated with mail servers in order to be able to form the address "@electroluxprofessional.com" supports the view of the Complainant that the disputed domain name may be intended for spamming or phishing activities impersonating the Complainant.

Furthermore, the fact that the Respondent has not participated in these proceedings and leaves unrebutted the Complainant's allegations, supports a finding that the disputed domain name was registered and used in bad faith (see also *Confederation Nationale du Credit Mutuel v. WhoisGuard Protected, WhoisGuard, Inc, / Jean Duca*, WIPO Case No. [D2021-0977](#); *TTT Moneycorp Limited v. Diverse Communications*, WIPO Case No. [D2001-0725](#); *The Commissioners for HM Revenue and Customs v. Calvin Bonsu*, WIPO Case No. [D2020-1075](#)).

In light of the above, the Panel holds that the Respondent has registered and is using the disputed domain name in bad faith pursuant to paragraph 4(b)(iv) of the Policy. The Complainant has thus satisfied the third element of paragraph 4(a) 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 <electroluxprofessional.com> be transferred to the Complainant.

/Andrea Jaeger-Lenz/

Andrea Jaeger-Lenz

Sole Panelist

Date: March 6, 2023