

ADMINISTRATIVE PANEL DECISION

AB Electrolux v. Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2022-0997

1. The Parties

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

The Respondent is Domains By Proxy, LLC, United States of America (“United States”) / Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <electroluxappliances.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 23, 2022. On March 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 24, 2022, 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 March 25, 2022, 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 March 25, 2022.

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 March 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 19, 2022.

The Center appointed Angela Fox as the sole panelist in this matter on April 27, 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 Complainant is a Swedish joint stock company founded in 1901 and is an internationally well-known producer of appliances and equipment for kitchen and cleaning products and floor care products. Its products are sold around the world under the ELECTROLUX brand. In 2020, the Complainant had sales of SEK 116 billion and had about 48,000 employees. The Complainant's ELECTROLUX trademark is registered in more than 150 countries around the world, and is very well known in connection with home cleaning appliances. Annexed to the Complaint were details of numerous trademark registrations owned by the Complainant for marks consisting of, or including ELECTROLUX in the United States and elsewhere, including United States Trademark Registrations no. 0195691 for ELECTROLUX in Class 9, registered on March 3, 1925; 0248774 for ELECTROLUX in Class 11, registered on October 30, 1928; and International Trademark Registration no. 77925 in Classes 3, 7, 8, 9, 11, 16, 20, 21, 35 and 37, registered on September 16, 1998, designating multiple territories including the European Union.

The Complainant also owns numerous domain names incorporating the ELECTROLUX mark, including for instance, <electrolux.com> (created on April 4, 1996), <electrolux.org> (created on April 8, 1997), <electrolux.net> (created on April 8, 1997), and <electrolux.info> (created on July 31, 2001), among others. The Complainant, moreover, operates a website related to its business under the ELECTROLUX mark at "www.electroluxappliances.com", which is nearly identical to the disputed domain name.

The disputed domain name was registered on October 8, 2021, and does not link to any active website.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain name is confusingly similar to its registered ELECTROLUX trademark, which the disputed domain name includes in its entirety. The disputed domain name differs from the Complainant's trademark only in the addition of the word "apliances", which is a misspelling of the word "appliances" and refers directly to the goods produced and sold by the Complainant under its well-known ELECTROLUX trademark. The Complainant also submits that the disputed domain name is virtually indistinguishable from the domain name used by the Complainant for its own website, "electroluxappliances.com", and that the Respondent registered the disputed domain name intentionally with the aim of attracting Internet users who are likely to mistakenly read it as denoting the Complainant's own website. The Complainant submits that this is an example of typosquatting, designed to confuse the Internet users, whose eyes and brains will read the disputed domain name as a combination of the Complainant's trademark and the word "appliances" and therefore, click on the disputed domain name in the mistaken belief that it is that of the Complainant.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not authorized, licensed or otherwise permitted the Respondent to use the disputed domain name, and has no business or legal relationship with the Respondent. The disputed domain name does not resolve to any active website, and it is not therefore being used in connection with a *bona fide* offering of goods or services, nor any legitimate noncommercial or fair use. The Complainant contends that the disputed domain name seeks to capitalize on the reputation and goodwill of the Complainant's ELECTROLUX mark, misleading Internet users into thinking that the disputed domain name is operated by or affiliated with the Complainant. Consequently, the Complainant argues that it carries a high risk of implied false affiliation with the Complainant and its activities (section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The Complainant

submits, therefore, that there is no conceivable legitimate and non-infringing use to which the disputed domain name could be put.

Finally, the Complainant argues that the disputed domain name was registered in bad faith and that the Respondent's passive holding of the disputed domain name constitutes use in bad faith. The Complainant submits that the fame of the Complainant's long-established ELECTROLUX mark, and the fact that the disputed domain name includes the misspelled word "apliances" and appears to be a deliberate misspelling of the Complainant's domain name <electroluxappliances.com>, indicate that the Respondent must have registered the disputed domain name with the Complainant's trademark in mind and with the intention of creating confusion on the part of Internet users, which the Complainant submits constitutes registration in bad faith. The Complainant submits that it is impossible to conceive of any good faith use to which the disputed domain name could be put, and that the Respondent's passive holding of the disputed domain name should be regarded as bad faith use following the principles outlined in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The Complainant points to the fact that the Respondent has been concealing its identity through the use of a privacy shield as further evidence of this.

B. Respondent

The Respondent did not reply to the Complainant's contentions and is in default. No exceptional circumstances explaining the default have been put forward. Therefore, in accordance with paragraphs 14 (a) and (b) of the Rules, the Panel will decide the Complaint and shall draw such inferences as it considers appropriate from the Respondent's default.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the panel finds that:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

All three elements must be present before a complainant can succeed in an administrative proceeding under the Policy.

A. Identical or Confusingly Similar

The Complainant has proved that it owns registered trademark rights in ELECTROLUX.

The disputed domain name incorporates the Complainant's ELECTROLUX trademark in its entirety, differing only in the addition of the word "apliances", which is a clear misspelling of the word "appliances". This misspelling is a common and foreseeable typographical error that is likely to be made by Internet users and is visually hardly noticeable. The Complainant's trademark is readily recognizable within the disputed domain name. As noted by the Complainant, [WIPO Overview 3.0](#), section 1.8 states that the addition of a term to a trademark within a domain name does not prevent a finding of confusingly similarity under the first element.

The Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has not authorized the Respondent to use its ELECTROLUX trademark in any way, and there is no evidence that the Respondent has ever been commonly known by the disputed domain name nor that it has acquired any trademark rights in it. The Respondent does not appear to have used the disputed domain name, and the Panel agrees that in light of the reputation of the ELECTROLUX mark in relation to “appliances”, there appears to be no legitimate noncommercial or fair use to which the disputed domain name could be put.

Overall, therefore, there is nothing on the facts of this case to suggest that the Respondent could invoke any of the circumstances listed in paragraph 4(c) of the Policy in order to demonstrate a right or legitimate interest in the disputed domain name.

Numerous panels have found under the UDRP that “once the Complainant makes a *prima facie* showing that the registrant does not have rights or legitimate interests in the domain name, the evidentiary burden shifts to the registrant to rebut the showing by providing evidence of its rights or interests in the domain name” (see, for example, *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#)). In this case, the Respondent has made no effort to refute the Complainant’s allegation that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

As noted by the Complainant in the Complaint, section 3.1.4 of the [WIPO Overview 3.0](#) states that the mere registration of a domain name that is identical or confusingly similar to a famous trademark by an unaffiliated entity can by itself create a presumption of bad faith (see *CVS Pharmacy, Inc. v. Domains By Proxy, LLC / Admin Admin*, WIPO Case No. [D2021-3484](#)). The ELECTROLUX mark is well known internationally for household appliances, and the disputed domain name is confusingly similar to that trademark. The Panel agrees with the Complainant that the eye and brain will automatically read the disputed domain name as consisting of the Complainant’s trademark ELECTROLUX and the word “appliances”, which is directly descriptive of the goods produced and sold by the Complainant. The Respondent is unaffiliated with the Complainant and in light of all this, there appears to be no conceivable good faith reason why the Respondent should have registered the disputed domain name. The Panel agrees that the disputed domain name was registered in bad faith.

The Panel also considers that the Respondent’s passive holding of the disputed domain name constitutes bad faith use under the principles outlined in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The ELECTROLUX trademark is well known and the Respondent has made no effort to provide any evidence of actual or contemplated good-faith use of the disputed domain name. The Respondent has moreover sought to conceal its identity through the use of a privacy shield. As the Complainant submits, there is a high risk that the disputed domain name, if used by the Respondent, will lead Internet users to falsely assume that it is a domain name of the Complainant or is otherwise linked to or affiliated with the Complainant. Ultimately, the Panel considers it is implausible that the disputed domain name in the hands of the Respondent could ever be put to any good faith use. In line with the passive holding principles outlined in *Telstra*, therefore, and taking into account all of the facts of this case, the Panel finds that the disputed domain name has been used in bad faith.

The Panel finds that the disputed domain name was registered and has been used in bad faith.

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, <electroluxappliances.com>, be transferred to the Complainant.

/Angela Fox/

Angela Fox

Sole Panelist

Date: May 20, 2022