

ADMINISTRATIVE PANEL DECISION

AB Electrolux v. Maxim Artamonov

Case No. D2023-0284

1. The Parties

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

The Respondent is Maxim Artamonov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain names <electrolux-climate.com> is registered with RU-CENTER-MSK (Regional Network Information Center, JSC dba RU-CENTER) (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 23, 2023. On January 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 24, 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 31, 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 February 2, 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 February 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 28, 2023.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on March 6, 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 joint stock company whose ELECTROLUX trademark is used in connection with kitchen and cleaning appliances for both consumers and professionals. The Complainant sells approximately 60 million household products in approximately 120 markets every year. In 2021, the Complainant had around 52,000 employees, and its sales amounted to SEK 126 billion.

The Complainant owns numerous trademark registrations including the International trademark ELECTROLUX with registration No. 828253, registered on November 18, 2003 for goods and services in International Classes 3, 7, 8, 9, 11, 21, 25, 35, 37 and 39 for various jurisdictions, including BG, BY, CH, CN, CU, GE, IS, MA, MC, MD, ME, MK, NO, RO, RS, RU, TR, UA, and ZM; and the International trademark ELECTROLUX with registration No. 836605, registered on March 17, 2004 for goods and services in International Classes 3, 7, 8, 9, 11, 12, 21, 25, 35, 37 and 39 for various jurisdictions, including AG, AL, AM, AU, AZ, BA, BG, BQ, BT, BY, CH, CN, CW, EE, GE, HR, IR, IS, KE, KG, KP, KR, KZ, LI, LS, LT, LV, MA, MC, MD, ME, MK, MN, MZ, NO, RO, RS, RU, SL, SX, SZ, TJ, TM, TR, UA, UZ, and ZM. The ELECTROLUX mark was first filed for registration as early as 1924-25 in the United States of America, Denmark, Israel, and some other countries.

The Complainant maintains its official website at <electrolux.com>, which was created on April 30, 1996, and owns hundreds of other domain names, operating many of them.

The disputed domain name <electrolux-climate.com> was registered on April 28, 2022 and resolved as of January 13, 2023 to a website offering the Complainant's ventilation products. The Respondent's identity was initially redacted for privacy.

5. Parties' Contentions

A. Complainant

The Complainant says that it has acquired a substantial secondary reputation in its ELECTROLUX mark which was first registered as long ago as 1925. The disputed domain name was registered recently, the Complainant points out, and incorporates the registered mark ELECTROLUX in its entirety, with a suffix "climate", separated by a hyphen. The Complainant asserts that its registered trademark is clearly recognizable within the disputed domain name, which is sufficient to justify a finding of confusing similarity, and the disputed domain name looks and sounds like its trademark.

The Complainant says that the Respondent is not affiliated with it, nor otherwise authorized in any way to make use of the ELECTROLUX mark. The disputed domain name has a recent registration date of April 28, 2022 while the Complainant points out that it has built up a global reputation since 1901 and has invested substantial resources in promoting its products under the mark ELECTROLUX since its first trademark registration in 1925. Moreover, the Complainant's trademark ELECTROLUX is said to be a distinctive term that one would not legitimately choose as a domain name without having specific rights to such a combination. The Complainant contends that any person using the mark or name ELECTROLUX in any manner is bound to lead customers and users to infer that its product or service has an association with the Complainant and is bound to result in confusion and deception. The Complainant further maintains that it is extremely difficult to foresee any legitimate use that the Respondent may have of the disputed domain name, which combines the mark ELECTROLUX with the term '-climate' as a suffix.

The Complainant sells the "Ventilation system" in relation to a range of commercial kitchens. At the time the Complainant accessed it on January 13, 2023, the website to which the disputed domain name resolved

contained descriptive text in English and the Complainant points out in particular that its trademark ELECTROLUX was displayed in the top left corner and the website listed three ventilation product categories, being "EXHAUST FANS", "FLOOR FANS" and "AIR HANDLING UNITS". The Complainant maintains that it is thus apparent from the website screenshot it took on January 13, 2023 that the Respondent knew of the Complainant's mark and its business activities. The said website contained a number of other pages, the Contact Us page provided addresses for different locations in Russian Federation and the Payment sub-page listed the payment options and modes of delivery within Russian Federation. However, the Complainant stresses that the said website nowhere included any other detail or information explaining its relationship with the Complainant, rather it is evident that the Respondent intended exclusively to pass itself off as the Complainant and to free ride on the latter's reputation and goodwill.

The website to which the disputed domain name resolves does not provide 'Terms of use' or 'Disclaimer' information and so the Complainant contends that the Respondent cannot satisfy the *OKI Data* test as it "does not accurately and prominently disclose the registrant's relationship with the trademark holder" in terms of that test. The Complainant further says that it is obvious from the facts that the Respondent's sole purpose in registering the disputed domain name was to take undue advantage of the Complainant's mark ELECTROLUX. The Complainant also points to the Respondent's ownership of other trademark-based domain names: <hisense-climate.com>, <toshiba-climate.com>, <cisco-msk.com> and <hikvision-ds.com>, all domain names that are composed of well-known trademarks. All this is said to amount to a clear case of cyber-squatting and does not fall within the terms of clause 4(c)(i) or (iii) of the Policy as there is neither a demonstrable preparation to use the disputed domain name for a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use being made. The Respondent Maxim Antonov is also not commonly known by the name ELECTROLUX as an individual, business or any other organization. The Complainant points out that all these facts establish a *prima facie* case that the Respondent has no right or legitimate interest in the disputed domain name and that therefore, pursuant to the Policy, the burden shifts to the latter to show it does have a right or legitimate interests.

The Complainant says that it is well established that the registration of a domain name that is confusingly similar to another's mark, despite actual or even constructive knowledge of the mark holder's rights, constitutes bad faith registration and use, pursuant to Policy 4(a)(iii). The Complainant asserts that the wide usage of the ELECTROLUX marks has resulted in those marks acquiring a trans-border reputation. Even a simple Google search for ELECTROLUX is said to evidence the popularity of the Complainant's mark and the keywords contained in the disputed domain name. Hence the Complainant asserts that it is inconceivable that the registration of the disputed domain name was made without full knowledge of the existence of the Complainant and its well-known trademark. Given that the website to which the disputed domain name resolves offers the Complainant's marked products for sale, and that the Complainant's ELECTROLUX mark is registered in the Russian Federation, the Respondent must have actual knowledge of the Complainant and its proprietary goodwill, so the Complainant says. Further, the disputed domain name has been contrived for the express purpose of exploiting that goodwill and to mislead the general public into believing the associated website was official or authorized. Without such authorization, the website concerned cannot be legitimate, the Complainant contends, and in fact has the propensity to cause irreparable loss to its goodwill and reputation.

Given all the above facts and contentions, the Complainant concludes by saying that the use and registration of the disputed domain name was clearly intended to capitalize on consumer confusion for the Respondent's profit, a bad faith use under the Policy.

B. Respondent

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

6. Discussion and Findings

A. Language of the Proceedings

The Complainant requests that the proceedings in this matter be conducted in English, pointing to the fact that the registration agreement was both in Russian and English. The Complainant contends that for that reason, it should not be presumed that the Respondent does not understand the English language. However, in response to the Center's query, the Registrar has indicated that the language of the registration agreement is Russian.

Further in support of its request that the language adopted for the proceeding nonetheless be English, the Complainant points out that the Respondent has registered a domain name that combines the ELECTROLUX trademark with an English word that being "climate". Further, it appears that when the Complainant accessed the website to which the disputed domain name resolved on January 13, 2023, parts of that website were indeed expressed in English. In addition,, the Respondent has not replied to any of the contentions of the Complainant, although he was served Notice of this proceeding both in Russian and English, and has made no arguments favoring the adoption of Russian as the language of the proceeding. The establishment of the relevant website was unauthorized and the ELECTROLUX trademark is one that benefitted from a very wide multinational reputation at the time the disputed domain name was registered. In the circumstances, it appears highly likely that the Respondent understands English, and to compel the Complainant to translate all documents into Russian and conduct these proceedings in a language it is not familiar with would impose an unnecessary burden on it, and is not required by any consideration of fairness.

Therefore the Panel holds that this proceeding is to be conducted in English.

B. Identical or Confusingly Similar

The disputed domain name is not identical to the distinctive ELECTROLUX registered trademark of the Complainant. However, that mark is immediately recognizable in the disputed domain name, all the more so since it is separated from the term "climate" by a dash. That fact alone is sufficient to meet the requirements of paragraph 4(a)(i) of the Policy, as has now been consistently held. The additional inclusion of the term "climate" has no impact on the assessment of confusing similarity in the circumstances.

Therefore, the Panel holds that the disputed domain name is confusingly similar to the ELECTROLUX trademark of the Complainant.

C. Rights or Legitimate Interests

The Respondent was not authorized to incorporate the distinctive ELECTROLUX trademark in the disputed domain name, nor to make any use of that mark whatsoever. There is nothing to indicate that the Respondent is known by or has any legitimate claim to the ELECTROLUX registered trademark or the ELECTROLUX business name. The disputed domain name was at one point used to establish a website that pretends to be authorized by the Complainant, incorporating its trademark and representations that suggest it was an official site dealing in the environmental products of the Complainant. However, none of that was the case and the Respondent was never either a licensee or an authorized reseller of the Complainant's marked products in Russian Federation. The Respondent's activities in relation to the disputed domain name are thus not of a kind that results in the recognition of rights or legitimate interests benefiting it. Rather, the disputed domain name was clearly acquired and used in a deliberate ploy to deceive consumers and derive some illegitimate benefit at the Complainant's expense. The Respondent did not reply to any contentions of the Complainant and has sat on its hands and done nothing to assert any rights or interests.

Therefore, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name.

D. Registered and Used in Bad Faith

The ELECTROLUX trademark of the Complainant has been in commercial use since the early years of the 20th century and its first registration dates back to 1925. It has accumulated considerable goodwill in many jurisdictions in relation to whitegoods and related products. It is in any case clear from the composition of the disputed domain name, and of the website to which it resolved on January 13, 2023, that the Respondent was fully aware of the Complainant's exclusive rights to the ELECTROLUX mark at the time of registration. The Respondent's use of that mark was clearly in bad faith because it was intended to deceive consumers in a first step by leading them to a false website that was structured to mimic that of the Complainant. The reproduction of the ELECTROLUX mark of the Complainant in the website to which the disputed domain name resolved was further intended to mislead consumers as was the rest of the content and representations displayed on that site. The whole exercise of registering the disputed domain name and then setting up the website to which it resolved was clearly abusive and intended to produce profit for the Respondent derived from a deception perpetrated on Internet users. The fact that when the Panel accessed the website to which the disputed domain name resolved on March 20, 2023, the site displayed only a 'This site cannot be reached'- notice makes no difference since the Complainant provided clear evidence of the Respondent's abuse of the disputed domain name at the time the Complainant accessed it in January 2023.

Therefore, the Panel holds that the disputed domain name was registered and 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 <electrolux-climate.com> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: March 20, 2023