

ADMINISTRATIVE PANEL DECISION

AB Electrolux v. Antony Jhon, Electrolux Ink
Case No. D2023-4602

1. The Parties

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

The Respondent is Antony Jhon, Electrolux Ink, United States of America.

2. The Domain Name and Registrar

The disputed domain name <electrolux.ink> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 2, 2023. On November 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 7, 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 (REACTIVATION PERIOD, Withheld for Privacy Purposes) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 20, 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 November 24, 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 November 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 8, 2024.

The Center appointed Torsten Bettinger as the sole panelist in this matter on January 12, 2024. 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 produces appliances and equipment for kitchen, cleaning, and floor care products. It owns trademarks in multiple jurisdictions, including the European Union trademark registration No. 000077925 ELECTROLUX, registered on September 16, 1998, for ELECTROLUX and the International trademark registration No. 836605 for a semi-figurative ELECTROLUX mark, registered on March 17, 2004, both designating multiple jurisdictions, specifying goods and services in multiple classes.

The Complainant has also registered multiple domain names, including <electrolux.com>, registered on April 30, 1996, that it uses in connection with a website where it provides information about itself and its products.

The disputed domain name was registered on September 20, 2022. It has initially resolved and apparently currently resolves to a pay-per-click (“PPC”) site, brandishing headings including, for instance, “Discount Refridgerator” or “ELECTROLUX Refridgerator Parts”. At the time of filing of the Complaint, the disputed domain name has resolved to an inactive website. The Complainant sent a cease-and-desist letter to the Respondent on July 31, 2023, requesting the domain name’s transfer. The Respondent did not reply to this correspondence.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant states that it is a world leading producer of appliances and equipment for the kitchen, cleaning products, and floor care products that is the holder of numerous trademarks for ELECTROLUX, covering more than 150 countries around the world. The Complainant contends that the ELECTROLUX trademark is well known, distinctive, and has been used for more than a century.

With regard to the requirement of identity or confusing similarity between the trademark and the disputed domain name pursuant to paragraph 4(a)(i) of the Policy, the Complainant asserts that:

- the disputed domain name consists of the ELECTROLUX mark in its entirety, without alteration or addition, and is therefore identical to the ELECTROLUX mark;
- the disputed domain name’s ‘.ink’ extension should be disregarded under the first element as it forms a standard registration requirement.

With regard to the Respondent having no rights or legitimate interests in the disputed domain name, the Complainant submitted that:

- the Respondent has not registered any trademarks, nor does the Respondent have unregistered trademark rights, for the term “electrolux” or any similar term;
- the Respondent has not been licensed by the Complainant to register domain names featuring its ELECTROLUX mark, nor any confusingly similar variant thereof;
- the disputed domain name previously resolved to a PPC site, brandishing headings including, for instance, “Discount Refrigerator”;
- the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering if such links compete with or capitalise on the reputation and goodwill of a complainant’s mark or otherwise mislead Internet users;

- the Respondent’s use of the disputed domain name, to attract and misleadingly divert Internet users to sites which include those of competing third parties, is use which enables the Respondent to derive PPC revenue by unfairly capitalising on the Complainant’s ELECTROLUX mark;
- the Respondent’s conduct neither constitutes a *bona fide* offering of goods or services, nor legitimate noncommercial or fair use, under the Policy;
- the Respondent is not known, nor has ever been known, by its ELECTROLUX mark, nor anything similar;
- the Respondent is not connected to nor affiliated with the Complainant and has not received license or consent to use the ELECTROLUX mark in any way.

Finally, with regard to the disputed domain name having been registered and being used in bad faith, the Complainant argues that:

- the Complainant’s ELECTROLUX mark is readily identifiable on publicly accessible trademark databases and the simplest degree of due diligence would have made a registrant of the disputed domain name aware of the Complainant’s rights in the globally renowned ELECTROLUX mark;
- the Respondent failed to reply to Complainant’s cease-and-desist letter;
- by using the disputed domain name for a PPC website with links to competing services of third parties (e.g., in connection with headings such as “Discount Refrigerator”), the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s renown ELECTROLUX mark.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy states that the Complainant must prove each of the three following elements:

- (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.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel therefore finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel agrees with the Complainant that the Respondent’s use of the disputed domain name for a PPC parking website for the purpose of generating Internet traffic by appropriating the Complainant’s reputation and trademark cannot be regarded as legitimate noncommercial or fair use. The inactive use of the disputed domain name at the time of filing does not alter the Panel’s finding.

In addition, no evidence has been provided to prove that the Respondent has trademark rights corresponding to the disputed domain name, or that the Respondent has become known by the disputed domain name.

Furthermore, the Panel finds that the nature of the disputed domain name carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Panel therefore concludes that the Respondent has no rights or legitimate interests in the disputed domain name and that, accordingly, the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Complainant provided evidence of multiple trademark registrations for the ELECTROLUX mark that predate the registration of the disputed domain name and are identical to the disputed domain name.

In light of the extensive use of the Complainant’s ELECTROLUX trademark in more than 150 countries and the fact that the disputed domain name resolved to a PPC website with links capitalizing on the Complainant’s trademark, the Panel has no doubt that the Respondent was aware of the Complainant and the Complainant’s trademark rights when registering the disputed domain name.

The Panel therefore concludes that the Respondent registered the disputed domain name in bad faith.

At the time of filing the Complaint, the Complainant provided evidence that the disputed domain name was passively held. Prior UDRP panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of

actual or contemplated good faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel notes the degree of distinctiveness or reputation of the ELECTROLUX trademark, the nature of the disputed domain name, and the failure of the Respondent to submit a response and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the record in this proceeding it is also undisputed that the disputed domain name directed and currently resolves Internet users to a PPC parking page.

The purpose of this PPC parking website clearly was to attract Internet users to the site, for profit, based on their confusing similarity with the Complainant. Once on the disputed domain name, some Internet users could likely click on PPC links, which presumably result in click-through fees and thus in a commercial benefit for the Respondent. The Panel therefore infers that the Respondent by using the disputed domain name in this manner, has intentionally created a likelihood of confusion with the Complainant's trademark for the Respondent's financial gain and that the Respondent is using the disputed domain name in bad faith.

The Panel finds that the Respondent registered and is using the disputed domain name in bad faith. The Panel concludes that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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 <electrolux.ink> be transferred to the Complainant.

/Torsten Bettinger/

Torsten Bettinger

Sole Panelist

Date: January 26, 2024