

ADMINISTRATIVE PANEL DECISION

AB Electrolux v. Mark Williams

Case No. D2023-4953

1. The Parties

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

The Respondent is Mark Williams, Spain.

2. The Domain Name and Registrar

The disputed domain name <electroluxprofessiona.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 28, 2023. On November 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 30, 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 (GDPR Masked) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 30, 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 December 4, 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 December 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 2, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on January 8, 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

According to information in the Complaint, the Complainant is a Swedish joint stock company founded in 1919 and a world leading producer of appliances and equipment for the kitchen, cleaning products, and floor care products. The Complainant has more than 52,000 employees based in over 60 offices across the world. The Complainant is the holder of a number of trademarks for ELECTROLUX, covering more than 150 countries around the world, including the European Union trademark No. 006786081 for ELECTROLUX (figurative) registered on November 6, 2008; and United States of America trademark No. 195691 for ELECTROLUX (word), registered on March 3, 1925.

The Complainant owns various domain names consisting of the ELECTROLUX mark, many of which are used to advertise the Complainant's offerings in different countries, such as <electrolux.com> registered on April 30, 1996, or <electroluxprofessional.com> registered on July 2, 2004.

The disputed domain name was registered on February 16, 2023 and does not resolve to an active website.

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.

Notably, the Complainant contends that it satisfies the confusing similarity requirement of the first element, as the disputed domain name encompasses the ELECTROLUX mark in full, only followed by 'professiona', a misspelt form of the word 'professional'.

As regards the second element, the Complainant argues that, to the best of its knowledge, the Respondent has not registered any trademarks, nor does the Respondent have unregistered trademark rights, for 'electroluxprofessiona' or any similar term. Also, 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 does not resolve to an active site, and panels have repeatedly found that such lack of use is not consistent with a *bona fide* offering within the meaning of paragraph 4(c)(i) nor legitimate non-commercial or fair use within the meaning of paragraph 4(c)(iii) of the Policy. The Complainant additionally submits that the disputed domain name's composition, by juxtaposing its distinctive ELECTROLUX mark with a misspelt form of the word 'professional' (*i.e.*, by adding a further 's' after this word's 'i'), carries a high risk of implied affiliation.

With respect to the third element, the Complainant argues that it has accrued substantial goodwill and recognition in the ELECTROLUX brand, which was first registered as a trademark more than 90 years ago. The Complainant has a global customer base with more than 52,000 employees and over 60 office locations around the world. The simplest degree of due diligence would have made the Respondent aware of the Complainant's rights in the globally-renowned ELECTROLUX mark. The Complainant submits that its ELECTROLUX mark, which has been used for more than a century, is clearly distinctive and widely-known. There is no evidence of the Respondent having made any good faith, legitimate non-commercial or fair use of the disputed domain name, or of being commonly known by such. It is also clear, given the composition of the disputed domain name, that no good faith use could be made of it by the Respondent. The Complainant lastly submits that the Respondent has configured the disputed domain name with multiple MX (mail exchange) records, and this conduct is indicative of the Respondent's intention to capitalise on the Complainant by engaging in email phishing or other fraudulent activities. This inference is strong given the typosquatting nature of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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 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 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "professionisonal", a misspelled version of "professional", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel 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.

Based on the available record, the Panel finds the second element of the Policy has been established.

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.

According to the unrebutted assertions of the Complainant, its ELECTROLUX trademark was widely used in commerce well before the registration of the disputed domain name. The disputed domain name is confusingly to the Complainant's trademark and its domain name <electroluxprofessional.com> and other domain names of the Complainant. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain name. The Respondent provided no explanations for why he registered the disputed domain name.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and repute of the Complainant's trademark, and the composition of the disputed domain name, 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.

An additional element is the Domain Name System ("DNS") setup of the disputed domain name (with active MX records). Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions or provide any evidence of actual or contemplated good-faith use, and indeed none would seem plausible. In the Panel's view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain name. The Respondent failed to bring evidence as to the contrary. The Respondent's bad faith is reinforced by the Respondent's use of a fake address to which the courier delivery could not be made.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <electroluxprofession.com> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: January 22, 2024