

ADMINISTRATIVE PANEL DECISION

AB Electrolux v. Loja Ofertas

Case No. D2023-0864

1. The Parties

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

The Respondent is Loja Ofertas, Brazil.

2. The Domain Name and Registrar

The disputed domain name <lojaelectrolux.com> is registered with Hostinger, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 25, 2023. On February 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 28, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 3, 2023.

The Center appointed Delia-Mihaela Belciu as the sole panelist in this matter on April 12, 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, established in 1919, headquartered in Stockholm. The Complainant is one of the world's leading producers of appliances and equipment for kitchen and cleaning products and floor care products. According to the Complainant's annual report in 2022, the Complainant had sales of SEK 126 billion (60 million products in 120 countries) and around 52,000 employees internationally.

The Complainant has a large portfolio of trademarks consisting of ELECTROLUX, in many countries and territories worldwide, including the following:

- the European Union Trademark for ELECTROLUX No. 006786081, registered on November 6, 2008, for goods in class 28;
- United States of America Trademark for ELECTROLUX No. 0248774, registered on October 30, 1928, for goods in class 11;
- Brazilian Trademark for ELECTROLUX No. 002625920, registered on August 30, 1949, for goods in class 09;
- Brazilian Trademark for ELECTROLUX No. 002481839, registered on August 30, 1970, for goods in class 09;
- International Trademark Registration for ELECTROLUX No. 836605, registered on March 17, 2004, for goods and services in classes 3, 7, 8, 9, 11, 12, 21, 25, 35, 37, and 39;
- International Trademark Registration for ELECTROLUX No. 1182758, registered on October 10, 2013, for goods in class 28;
- European Union Trademark for ELECTROLUX No. 000077925, registered on September 16, 1998, for goods and services in classes 3, 7, 8, 9, 11, 16, 20, 21, 35, and 37;
- United Kingdom Trademark for ELECTROLUX No. UK00002351036, registered on August 6, 2004, for goods and services in classes 3, 7, 8, 9, 11, 21, 25, 35, 37, and 39.

The Complainant and its subsidiaries establish their online presence under, *inter alia*, the domain names <electrolux.com>, registered in 1996, or <electrolux.com.br>, which was registered in 1996 and hosts the subdomain <loja.electrolux.com.br>.

The disputed domain name was registered by the Respondent on June 22, 2022.

On January 9, 2023, the Complainant sent to the Respondent a cease-and-desist letter demanding the Respondent, among others, to transfer the disputed domain name to the Complainant (the "Letter"). The Respondent did not respond to the Letter.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's ELECTROLUX mark as such incorporates the ELECTROLUX mark in its entirety. The Complainant asserts that the ELECTROLUX mark is clearly recognizable in the disputed domain name and it should be considered confusingly similar to the Complainant's ELECTROLUX mark for purposes of paragraph 4(a)(i) of the Policy.

The Complainant further asserts that, the addition of the generic term “loja” in the disputed domain name which means “shop” in Portuguese, does not prevent a finding of confusing similarity between the Complainant’s trademarks and the disputed domain name.

In the Complainant’s view, disregarding the generic Top-Level Domain (“gTLD”) “.com”, the disputed domain name consists of the Complainant’s registered trademark and the term “loja”.

In the Complainant’s view, it is more than likely that an Internet user would mistake the disputed domain name as being somehow affiliated to or owned by the Complainant, given that the disputed domain name includes the entirety of the Complainant’s ELECTROLUX mark, being also extremely similar to the subdomain <loja.electrolux.com.br>, used by one of the Complainant’s subsidiaries.

For these reasons, the Complainant concludes that the disputed domain name is confusingly similar to its ELECTROLUX mark.

The Complainant further contends that the Respondent does not have any rights or legitimate interests in the disputed domain name for a number of reasons.

First, the Complainant asserts that such has not authorized the Respondent to use its ELECTROLUX mark for any reason or in any manner, including in or as part of the disputed domain name. The Complainant further contends that, the Complainant is not affiliated or otherwise connected with the Respondent.

Secondly, the Complainant alleges that such has found no evidence that the Respondent has been commonly known by the disputed domain name or by the term “lojaelectrolux”. On the contrary, the Complainant alleges that his Google Searches of both elements shown they are mostly referred to the Complainant and its activities.

Thirdly, the Complainant has found nothing to suggest that the Respondent owns any identical or similar trademarks to the disputed domain name or to the term “lojaelectrolux”.

Fourthly, the Complainant contends that the disputed domain name and the term “lojaelectrolux” have no meaning in English or Portuguese languages.

Fifthly, the Complainant alleges that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name as such resolves to a parking website and there is no evidence that the disputed domain name has resolved to a different website in the past.

The Complainant further contends that there is no evidence that the Respondent has been commonly known by the disputed domain name and that there is no evidence that the Respondent 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 or service mark at issue.

Further, the Complainant contends that the disputed domain name carries a high risk of implied false affiliation with the Complainant and its activities. In the Complainant’s view, the nature of the disputed domain name, which reproduces the Complainant’s well-known ELECTROLUX mark and it being extremely similar to the Complainant’s subdomain <loja.electrolux.com.br>, seeks to capitalize the reputation and goodwill of the Complainant’s ELECTROLUX mark, misleading consumers into thinking that the website were operated by or affiliated with the Complainant, when it is not the case.

Finally, the Complainant alleges that such has sent the Letter to the Respondent on January 9, 2023, but that the Respondent did not respond to the Letter.

For these reasons, the Complainant concludes that such has presented a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant further contends that the disputed domain name was registered and is being used in bad faith.

To this end, the Complainant argues that its well-known ELECTROLUX mark has been in use well before the registration date of the disputed domain name.

The Complainant further underlines that the disputed domain name:

1. reproduces in full the ELECTROLUX mark, without the consent or authorization of the Complainant.
2. is extremely similar to the Complainant's subdomain <loja.electrolux.com.br>, used by one of the Complainant's subsidiaries to establish its online presence and that Internet users commonly associate the term "lojaelectrolux" with the Complainant and its products. Therefore, in the Complainant's view, it is impossible to believe that the Respondent would have chosen the disputed domain name if it did not have the Complainant's ELECTROLUX mark and products in mind.

The Complainant alleges that a simple search in an online trademark register or in the Google search engine when the disputed domain name was registered would have informed the Respondent on the existence of the Complainant's rights in ELECTROLUX.

Further, the Complainant underlines that, previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous trademark by an unaffiliated entity, as it is the case here, can by itself create a presumption of bad faith.

For all these reasons, the Complainant concludes that, the disputed domain name was registered in bad faith.

In what concerns the use of the disputed domain name in bad faith, the Complainant underlines that the disputed domain name is not in use, since it only resolves to a parking website provided by the Registrar.

In the Complainant's view, the Respondent's passive holding of the disputed domain name has the characteristics which are associated with bad faith registration and use, as set out at section 3.3 of the [WIPO Overview 3.0](#), since:

- (i) the Complainant's ELECTROLUX mark is well-known and it is more than likely that the Respondent was aware of it as at the time of its registration of the disputed domain name;
- (ii) in addition to the above, the Complainant considers that the addition of the term "loja" ("shop" in English language) to the well-known trademark ELECTROLUX is another element demonstrating, per se, the Respondent's bad faith, seeing as the term could be considered related to the market in which the Complainant operates, and suggestive of the Respondent's intention to target the Complainant's reputation and lure unsuspecting Internet users to its website.
- (iii) having regard to the popularity of the Complainant's ELECTROLUX mark and the structure of the disputed domain name (reproducing in full the Complainant's mark and being almost identical to the subdomain <loja.electrolux.com.br>), it is impossible to think of any good faith use to which the disputed domain name could be put by the Respondent.
- (iv) finally, the lack of reply to the Letter prior to the proceedings is an indication of bad faith.

For all these reasons, the Complainant concludes that, the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to succeed, such must prove, according to paragraph 4(a) of the Policy, that:

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

In case all three element above have been fulfilled, the Panel is able to grant the remedy requested by the Complainant. Thus, the Panel will deal with each of the requirements in turn.

A. Identical or Confusingly Similar

According to paragraph 4(a)(i) of the Policy, the Complainant has to show that the disputed domain name is (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

With respect to the requirement of having rights pursuant to paragraph 4(a)(i) of the Policy, the Complainant owns several ELECTROLUX registered trademarks, in several jurisdictions. Consequently, the Panel finds that this requirement is fulfilled.

With regard to the assessment of identity or confusing similarity of the disputed domain name with the ELECTROLUX trademarks, it is generally accepted that this involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

The Panel finds that the disputed domain name is confusingly similar to the ELECTROLUX trademarks as such incorporates the ELECTROLUX mark in its entirety and the addition of the term "loja" which means "shop" in Portuguese does not avoid a finding of confusing similarity. The ELECTROLUX mark remains clearly recognizable within the disputed domain name.

Previous UDRP panels have held that additions do not avoid confusing similarity (see *Inter-IKEA Systems B. V. v. Evezon Co. Ltd.*, WIPO Case No. [D2000-0437](#); *The British Broadcasting Corporation v. Jaime Renteria*, WIPO Case No. [D2000-0050](#); *Volvo Trademark Holding AB v. SC-RAD Inc.*, WIPO Case No. [D2003-0601](#)).

In what concerns the addition of the gTLD ".com", this is not to be taken into consideration when examining the confusing similarity between the Complainant's trademarks and the disputed domain name, as such is viewed as a standard registration requirement and such is disregarded under the first element confusing similarity test (see section 1.11 of the [WIPO Overview 3.0](#)).

The Panel therefore finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie* case is made out, the burden of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to come forward with such appropriate allegations or evidence, the Complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy (see section 2.1 of the [WIPO Overview 3.0](#)).

In this case, the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which has not been rebutted by the Respondent, as the Respondent has not submitted any response.

Thus, based on the available evidence, the Respondent does not appear to be known by the disputed domain name or by the term “lojaelectrolux” nor that it owns any trademarks identical or similar to the disputed domain name or to the term “lojaelectrolux”. The Complainant has never authorised the Respondent to make use of its ELECTROLUX trademarks in the disputed domain name and also, the Respondent is not affiliated or otherwise connected with the Complainant.

Moreover, based on the evidence filed by the Complainant, the disputed domain name resolves to a parking website and there is no evidence that the disputed domain name has resolved to a different website in the past.

Furthermore, the disputed domain name comprises the Complainant’s ELECTROLUX mark in its entirety in combination with the term “loja”, which means ‘shop’ in Portuguese, the disputed domain name being extremely similar to the Complainant’s subdomain <loja.electrolux.com.br>, used by one of the Complainant’s subsidiaries, which might lead to confusion for Internet users as to the disputed domain name’s affiliation with the Complainant.

The above does not amount to a *bona fide* offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain name.

The Panel therefore finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, a complainant must show that the domain name has been registered and is being used in bad faith.

In this case, the Complainant’s rights to the ELECTROLUX trademark predate the registration date of the disputed domain name.

The ELECTROLUX trademark is registered in several jurisdictions around the world and enjoys of a well-known character, recognized by earlier UDRP panels as well (see *AB Electrolux v. Contact Privacy Inc. Customer 0161631641 / Edisom Mivaldo, Varejo Electrolux Cozinhas*, WIPO Case No. [D2021-1526](#); *AB Electrolux v. Domain Administrator*, WIPO Case No. [D2021-0868](#); *AB Electrolux v. Super Privacy Service c/o Dynadot*, WIPO Case No. [D2018-1069](#)). Moreover, considering the evidence filed by the Complainant in this file, the disputed domain name is extremely similar to the Complainant’s subdomain <loja.electrolux.com.br>, used by one of the Complainant’s subsidiaries to establish its online presence.

In light of the well-known character of the ELECTROLUX trademarks, the Panel agrees with the Complainant that it is not conceivable that the Respondent chose the disputed domain name without knowledge of the Complainant’s ELECTROLUX mark, which supports a finding of bad faith registration (see sections 3.2.2 of the [WIPO Overview 3.0](#)).

The Respondent's incorporation into the disputed domain name of the Complainant's well-known ELECTROLUX mark in its entirety, followed by the addition of the term "loja", which means "shop" in Portuguese, the disputed domain name being extremely similar to the Complainant's subdomain <loja.electrolux.com.br>, used by one of the Complainant's subsidiaries, the failure of the Respondent to respond to the Letter as well as to submit a response in this file, as well the Respondent's passive holding of the disputed domain name, lead to a finding of bad faith registration and use (see section 3.3 of the [WIPO Overview 3.0](#)).

For all these reasons, the Panel finds that the disputed domain name has been registered and is being used in bad faith and that the third element of paragraph 4(a)(iii) of the Policy is fulfilled.

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

/Delia-Mihaela Belciu/

Delia-Mihaela Belciu

Sole Panelist

Date: April 26, 2023