

ADMINISTRATIVE PANEL DECISION

AB Electrolux v. Okwuchukwu Emeghebo / Morberg solutions
Case No. D2024-0791

1. The Parties

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

The Respondent is Okwuchukwu Emeghebo, Morberg solutions, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <electroluxprofesionals.com> is registered with OwnRegistrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 21, 2024. On February 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 23, 2024, 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 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 12, 2024.

The Center appointed Warwick Smith as the sole panelist in this matter on April 18, 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 is a Swedish corporation, originally incorporated as Elektromekaniska AB in 1910. That company merged with Swedish AB Lux in 1919, and the merged entity was thereafter known as AB Electrolux.

In the early part of the 20th century, the Complainant marketed two main products: a canister-type vacuum cleaner, and an absorption refrigerator. From the 1930s the Complainant expanded its business in these and other products, acquiring a number of subsidiary companies, including a household appliances company then operating in Italy and Spain, and, in 1986, the third largest white goods company in the United States of America (“United States”). The Complainant had also developed an Outdoors Products business, which it expanded in the 1980s with the acquisition of a major United States corporation operating in that market. By 1998, the Complainant’s core business comprised sales of household appliances, Professional Appliances, and Outdoor Products. Its annual group sales had grown to SEK 117 billion. The Complainant says that, by 2021, it had 52,000 employees, and was selling approximately 60 million household products / appliances in approximately 120 international markets, with annual sales of approximately SEK 126 billion.

Sales of the Complainant’s kitchen and cleaning products (for both consumers and professional users) have been made under a number of word or figurative versions the Complainant’s ELECTROLUX trademark. The Complainant now holds such registrations in more than 150 countries. It is not necessary to refer to all of those marks. It is enough for the purposes of this decision to take as an example one of the Complainant’s national registrations of the word mark ELECTROLUX, and to refer to one of the two international registrations of a figurative ELECTROLUX mark on which the Complainant relies.

The Complainant is the registered proprietor of the word mark ELECTROLUX in Canada, under registration number TMA 1078616. The registration date was May 19, 2020, and the registration covers various goods and services in International Classes 8, 9, 16, 20, 21, 22, and 27.

One of the figurative ELECTROLUX marks on which the Complainant relies, is the following mark:



The above mark (which the Panel will refer to as “the Electrolux device mark”) was registered internationally under the Madrid System on March 17, 2004, under number 836605. The registration covers numerous goods and services in International Classes 3, 7, 8, 9, 11, 12, 21, 25, 35, 37, and 39, including washing machines, spin driers, dishwashers, vacuum cleaners and parts for vacuum cleaners (all in Class 7), refrigerators, freezers, cookers, grills, ovens and microwave ovens (Class 11), and household and kitchen appliances (Class 21). The international registration of the Complainant’s mark designates over 40 countries, including a number of countries in Africa (although not Nigeria, where the Respondent appears to reside).

The principal website through which the Complainant markets its products is at <electrolux.com>, a domain name created on April 30, 1996. However, the Complainant also makes use of other domain names, including <electroluxprofessional.com>, which caters to the commercial sector.

The Complainant produced screenshots of its website at <electroluxprofessional.com> which prominently featured a logo consisting of the Electrolux device mark, varied by the addition of the word “professional”, in upper case lettering but smaller font, immediately below “Electrolux”. The website generally promoted Electrolux products to the business sector, providing links with headings such as “We take care of your equipment, so you can take care of your business”, and “Our customers” (featuring articles on a number of Electrolux’s commercial customers).

The Complainant has a strong presence on leading social media platforms, including Facebook where it has over 5 million followers.

Although the Complainant has not produced evidence that it has registered its ELECTROLUX mark in Nigeria, it produced a Google search on the expression “Electrolux in Nigeria”, which contained numerous hits that appear to show that Electrolux products and services are available to the public in Nigeria. By way of example, a website operated by the Nigeria Business Society was said to provide a “List of Electrolux Dealer companies and services in Nigeria”. The search also referenced a post on the X platform by a company called IECNigeria, describing the company as “electrolux professional distributor Nigeria”.

The disputed domain name was registered on March 18, 2023.

The Complainant provided a historical screenshot of the website at the disputed domain name (“the Respondent’s website”), apparently taken in May 2023.

The Respondent’s website appeared to reproduce exactly the “Electrolux PROFESSIONAL” logo /device that features on the Complainant’s website at “www.electroluxprofessional.com”. A number of the pages on the Respondent’s website also appeared to reproduce exactly same pages or sections from the Complainant’s website at “www.electroluxprofessional.com”. For example, a photo of a young girl tending a small plant, with the caption “Sustainable solutions to deliver long-term value – Discover more”, appears on both websites, as does a page or section headed “Electrolux Professional Centers of Excellence”, superimposed over a photo of what appears to be a commercial kitchen. A section of the Complainant’s website headed “Work with us”, with three lines of text below and a photograph of two women apparently in discussion, also appears to have been reproduced exactly in the Respondent’s website, as does a section at the end of the Complainant’s website with click-on links under the headings: “Corporate”, “Our Solutions”, “Resources”, “Support”, and “Join us”.

The Complainant appears to have visited the Respondent’s website again on February 15, 2024. The first page of the screenshot taken on that date consisted of a security warning from Chrome, headed “Dangerous site”. The warning stated that “Chrome has built in safety features[...]which recently found phishing on the site you are trying to visit. Phishing sites pretend to be other sites to trick you.”

An MXToolbox report produced by the Complainant shows that the disputed domain name is configured with an active Mail Exchange (“MX”) record, indicating that the disputed domain name has been configured for the sending of emails.

The Respondent is not affiliated with or otherwise associated with the Complainant, whether as licensee, vendor, supplier, distributor, or customer relations agent for the Complainant’s products. The Respondent has not been authorized by the Complainant to use its ELECTROLUX mark.

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.

Specifically, the Complainant contends that the disputed domain name is confusingly similar to the Complainant’s ELECTROLUX marks, that the Respondent has no rights or legitimate interests in respect or the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

The Complainant says that its ELECTROLUX mark has become a well-known and distinctive term in relation to household appliances, and is exclusively associated with the Complainant. In those circumstances, it is

extremely difficult to foresee any legitimate use the Respondent might have made of the disputed domain name at the time it was registered in March 2023. Furthermore, the Respondent has combined in the disputed domain name the ELECTROLUX mark with a typo of the word “professional” (transferring one “s” to the end of that word), in a deliberate attempt to imitate and take advantage of the extensive use the Complainant makes of its <electroluxprofessional.com> domain name. The Respondent’s registration and use of the disputed domain name is a clear case of cybersquatting, the intention being to take advantage of the Complainant’s substantial reputation and goodwill in order to confuse the public, thereby tarnishing the reputation and goodwill of the Complainant and its marks.

It is evident that the disputed domain name was registered, and the Respondent’s website set up /redirected, with the intent to mislead the Complainant’s customers or other online users into believing that the website is the official / authorized website for the Complainant. As the panel said in *AB Electrolux v Maxim Artamonov*, WIPO Case No. [D2023-0284](#):

The Respondent’s use of [the Complainant’s] 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 Complainant also relies on the active MX records for the disputed domain name. An MX record is a resource record in the domain name system specifying which email server is responsible for accepting email on behalf of a domain name, and there is no need to assign MX records to a domain name if the registrant does not intend to use the domain name to send and receive emails. Activating the MX records to designate an email server may constitute bad faith use of a domain name, and that is demonstrated in this case, where the Respondent has used the disputed domain name to send phishing emails and has set up an impersonating website at the disputed domain name with the aim of giving the impression that the disputed domain name is associated with the Complainant.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a Complainant is required to establish each of the following:

- (i) the 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 domain name; and
- (iii) the 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 trademarks or service marks in this case (including in respect of the Complainant's ELECTROLUX word mark) for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the ELECTROLUX word mark is reproduced within the disputed domain name, and the Panel finds that that 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 in the disputed domain name (in this case the expression "professionals") may bear on the assessment of the second and third elements, the Panel finds the addition of that 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.

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.

On the available evidence, the Respondent appears to have created the disputed domain name in order to confuse Internet users into believing that any website to which the disputed domain name resolved would be the Complainant's website at "www.electroluxprofessional.com". That is apparent from the typosquatting in the selection of the disputed domain name (where the second letter "s" in the word "professional" has been moved to the end of the word to create the very similar expression "professionals"), and from the Respondent's obvious attempt to mimic the Complainant's website in the Respondent's website (including by direct copying of text and photographs, and the use of a logo that was confusingly similar to the ELECTROLUX device mark).

Furthermore, Panels have held that the use of a domain name for illegal activity, such as phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. In this case, there is evidence of the disputed domain name having been used in an attempt to impersonate the Complainant, and also to engage in phishing activities.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity, as has been shown in this case, constitutes bad faith. The sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud have all been found to constitute bad faith registration and use for the purposes of the Policy. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name in this case has been for the purposes of both impersonating the Complainant (obvious from the selection of the disputed domain name, and from the copied material on the Respondent's website) and phishing (established by the MX records created for the disputed domain name, indicating an intention to use the disputed domain name to send and receive emails, and by the Chrome warning that the disputed domain name has been used for phishing). Those findings are sufficient to establish bad faith under the Policy.

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 <electroluxprofesionals.com> be transferred to the Complainant.

/Warwick Smith/

Warwick Smith

Sole Panelist

Date: May 2, 2024