

ADMINISTRATIVE PANEL DECISION

AB Electrolux v. Yevhen Mak, Electrolux Service
Case No. DUA2024-0008

1. The Parties

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

The Respondent is Yevhen Mak, Electrolux Service, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <electrolux-service.kyiv.ua> is registered with SE Skurikhin Mykola (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on May 29, 2024. On May 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 4, 2024, 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 (not published) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 6, 2024, 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 June 10, 2024.

On June 6, 2024, the Center informed the parties in English, Russian and Ukrainian, that the languages of the registration agreement for the disputed domain name are Ukrainian and Russian, and inviting the Complainant to submit satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceedings should be in English; or submit the Complaint translated into Ukrainian or Russian; or submit a request for English to be the language of the administrative proceedings.

The Complainant confirmed its request for English to be the language of the proceedings on June 10, 2024. The Respondent did not comment on the language of the proceedings.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of .UA Domain Name Dispute Resolution Policy (the “.UA Policy”), the Rules for .UA Domain Name Dispute Resolution Policy (the “.UA Rules”), and the WIPO Supplemental Rules for .UA Domain Name Dispute Resolution Policy (the “WIPO Supplemental Rules”).






In accordance with the .UA Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 14, 2024. In accordance with the .UA Rules, paragraph 5(a), the due date for response was July 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 8, 2024.

The Center appointed Anton Polikarpov as the sole panelist in this matter on July 23, 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 .UA Rules, paragraph 7.

4. Factual Background

Established in 1919, the Complainant is a Swedish multinational home appliance manufacturer, which is known as one of the world’s leading producers of appliances and equipment for kitchen, cleaning and floor care products. The Complainant operates in over 120 countries and markets its products under various brand names, including ELECTROLUX.

The Complainant actively enforces its intellectual property rights to protect the brand and innovations, registering trademarks in many jurisdictions around the world, which covers a wide range of products and services related to home appliances, including the following:

- Ukrainian Trademark registration No. 2651  **Electrolux** for registered on November 30, 1993, covering goods in Classes: 3, 7, 9, 11, and 21;
- International trademark No. 836605  **Electrolux** for registered on March 17, 2004 (designating, inter alia, Ukraine), covering goods and services in Classes: 3, 7, 8, 9, 11, 12, 21, 25, 35, 37 and 39;
- International trademark No. 854121,  **Electrolux** for registered on October 8, 2004 (designating, inter alia, Ukraine), covering goods and services in Classes: 7, 11, 16, 21, 35, 37 and 39;
- International trademark No. 1182758  **Electrolux** for registered on October 10, 2013 (designating, inter alia, Ukraine), covering goods in Class: 28;
- International trademark No. 1260775  **Electrolux** registered on January 27, 2015 (designating, inter alia, Ukraine), covering goods and services in Classes: 7, 8, 9, 11, 21, 26, 35 and 37.

The Complainant also holds several domain name registrations that contain ELECTROLUX mark. In particular the Complainant establishes its online presence under the domain name <electrolux.ua> registered on January 10, 2002, which hosts the website that displays information about the Complainant and its products.

The registration date of the disputed domain name is May 6, 2024, i.e., much later than the Complainant’s trademark registrations. At the date of this Decision, the disputed domain name leads to an inactive webpage.

The screenshots, as provided by the Complainant, show that the disputed domain name previously resolved to the website purportedly offered repairing services of ELECTROLUX branded appliances. The website associated with the disputed domain name was prominently using the Complainant's trademarks, including its official logo, without any prominent and accurate disclaimer describing the (lack of) relationship with the Complainant, quite to the contrary, claiming to be an official repair services provider for Complainant's products in Kyiv, Ukraine.

5. Parties' Contentions

A. Complainant

The Complainant contends that all three cumulative requirements as provided for in paragraph 4(a) of the .UA Policy are satisfied in this case, in other words:

- the disputed domain name is identical or confusingly similar to the trademarks in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- the disputed domain name was registered and is being used in bad faith.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

The Respondent has not replied to the Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

Paragraph 11(a) of the .UA Rules, provides that unless otherwise agreed by the Parties, the language of the administrative proceeding shall be the language of the Registration Agreement (which shall be in English, Russian or Ukrainian), subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

In this case, the languages of the registration agreement for the disputed domain name are Ukrainian and Russian; both Parties have had an opportunity to argue their positions on this matter.

The Complainant submitted the Complaint in English and requested English to be the language of the administrative proceedings, referring to the following: (i) the disputed domain name is exclusively constituted of letters issued from the Latin alphabet, rather than the Cyrillic alphabet; (ii) the disputed domain name includes the generic English word "service", being evident the Respondent's knowledge of this language; (iii) the Complainant and the Complainant's representative are located in Sweden. Although they have no knowledge of Russian language, they are able to communicate in English, which is the primary language for international relations; (iv) in order to proceed in Russian or Ukrainian language, the Complainant would have had to retain specialized translation services at a cost very likely to be higher than the overall costs of these proceedings. The use of Russian in this case would therefore impose a burden on the Complainant which must be deemed significant in view of the low costs of these proceedings; (v) the disputed domain name is exclusively constituted of the Complainant's well-known ELECTROLUX mark, together with a hyphen and with the generic term "service", it resolves to an active website which prominently displays the Complainant's ELECTROLUX mark in an unauthorized manner and allegedly offers repairing services of ELECTROLUX-branded appliances.

The Respondent did not make any comments with respect to the language of the proceedings.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)")¹, section 4.5.1).

The Panel acknowledges that although the language of the Complaint differs from the languages of the registration agreement as verified by the Registrar, the record supports a finding that it is appropriate to conduct the proceedings in English, according to the principles established in the UDRP panel decisions.

On the one hand, the Complainant being forced to translate its submissions and documentation into Ukrainian or Russian would, in the circumstances, cause needless cost and delay, and on the other hand the Respondent will not be unfairly affected by changing the language of the proceedings to English, given his failure to object. The Panel would have considered a response in either Ukrainian or Russian, but no response was submitted.

The Panel also finds applicable to this case the position on the use of English as the fairest neutral language, stated by previous UDRP panels under similar scenarios (see *LEGO Juris A/S v. Asiagroup*, WIPO Case No. [D2022-2829](#), *IPSOS v. Beats*, WIPO Case No. [D2022-1055](#)).

Based on the available record, the Panel finds it appropriate for the proceedings to be conducted in English and to render this Decision in English.

6.2. Further Procedural Considerations

Under paragraph 10 of the .UA Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. Since the Respondent's mailing address is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the .UA Rules, whether the proceeding should continue. Having considered all the circumstances of the case, the Panel is of the view that it should.

The Panel notes that the Center sent the Notification of Complaint by email to the Respondent at its email address as registered with the Registrar, a contact email address indicated on the website at the disputed domain name, and to a postmaster email address as specified by the Rules. There is no evidence that the case notification email to the first email address was not successfully delivered. The Panel further notes that the use of the disputed domain name has changed (currently it does not resolve to any active website). Which supports an inference that the Respondent is capable of continuing to control the disputed domain name.

It is moreover noted that, for the reasons which are set out later in this Decision, the Panel has no serious doubt (albeit in the absence of any Response) that the Respondent registered and has used the disputed domain name in bad faith and with the intention of unfairly targeting the Complainant's goodwill in its trademark. The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision accordingly.

¹ In view of the similarities between the .UA Policy and the Uniform Domain Name Dispute Resolution Policy ("UDRP"), the Panel may refer to the [WIPO Overview 3.0](#) and UDRP decisions when relevant.

6.3 Substantive Elements of the .UA Policy

The Panel will now assess this case based on the Complaint, the lack of the response, the .UA Policy, the .UA Rules, the WIPO Supplemental Rules, and other applicable legal references, in line with paragraph 15(a) of the .UA Rules.

Noting the burden of proof on the complainant, a respondent's default (i.e., failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true (see [WIPO Overview 3.0](#), section 4.3).

In light of the Respondent's failure to submit the response and rebut the Complainant's arguments, the Panel may decide this case based on the Complainant's undisputed factual allegations, in accordance with paragraphs 5(f), 14(a), and 14(b) of the .UA Rules.

Under paragraph 4(a) of the .UA Policy, the Complainant to succeed must satisfy the Panel that: (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 or is being used in bad faith.

A. Identical or Confusingly Similar

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 (see the [WIPO Overview 3.0](#), section 1.7).

Firstly, the Complainant has shown rights in respect of ELECTROLUX and ELECTROLUX SERVICE marks for the purposes of the .UA Policy (see the [WIPO Overview 3.0](#), section 1.2.1).

Secondly, the Panel admits that the additional term "-service" may bear on assessment of the second and third elements of the .UA Policy.

However, in this case: (i) it is covered by ELECTROLUX SERVICE mark; (ii) it, does not prevent a finding of identity or confusing similarity between the disputed domain name and the Complainant's trademarks (see *AB Electrolux v. Alexander Kleshchin*, WIPO Case No. [D2022-4515](#); *AB Electrolux v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2022-0241](#)).

Thirdly, the applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (see the [WIPO Overview 3.0](#), section 1.11.1).

Similarly, the country-code TLD ".kyiv.ua" in the disputed domain name is viewed as a standard registration requirement and is disregarded for the purposes of the confusing similarity test (see, in particular, *Starbucks Corporation v. Астафьев Игорь Игоревич*, WIPO Case No. [DUA2024-0004](#)).

In view of these arguments, the Panel finds that the disputed domain name is identical or confusingly similar to the trademarks in which the Complainant has rights in line with paragraph 4(a) of the .UA Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the .UA Policy provides some guidance to respondents on how to demonstrate rights or legitimate interests in the domain name at issue in a UDRP dispute. However, the Respondent has not provided any legitimate reason why it should be able to use the Complainant's trademarks in this manner.

While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see the [WIPO Overview 3.0](#), section 2.1).

According to the Complaint, the Respondent is neither licensed nor otherwise permitted to use ELECTROLUX or ELECTROLUX SERVICE mark in any manner. The disputed domain name resolved to the website offering services in relation to the Complainant’s products, which moreover claimed to be, contrary to the fact, an official repair services provider for the Complainant’s products, and using the Complainant’s trademarks.

Under previous UDRP panel decisions, it is possible for resellers, distributors or service providers to use a complainant’s trademark in a domain name to make a bona fide offering of goods or services, and thus have a legitimate interest in such domain name.

However, this case shows that the Respondent has not only failed to accurately and prominently disclose the Respondent’s lack of relationship with the Complainant, but actively sought to create a false impression of association with the Complainant. The composition of the disputed domain name and the website content inherently suggest an affiliation with the Complainant, underscoring the Respondent’s intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant’s trademarks.

Accordingly, the Respondent cannot be deemed to be making a fair use of the Complainant’s trademark as a service provider, because it fails to meet the Oki Data requirements (see the [WIPO Overview 3.0](#), section 2.8).

Noting the lack of response and the facts of the record before it, the Panel concludes that it appears more likely than not that the Respondent has been exploiting the Complainant’s trademarks and goodwill to attract Internet users, offering them repair services under a false guise of affiliation with the Complainant without any rights or legitimate interests under the .UA Policy.

The fact that the disputed domain name currently resolves to inactive website further affirms the Panel’s finding that the Respondent lacks rights or legitimate interests (See *Midjourney, Inc. v. Taisom Mike*, WIPO Case No. [D2024-0077](#)).

Therefore, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name, thereby fulfilling the requirement outlined in paragraph 4(a)(ii) of the .UA Policy.

C. Registered or Used in Bad Faith

Paragraph 4(b) of the .UA 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 (see the [WIPO Overview 3.0](#), section 3.2.1).

Based on the available records, the Panel notes that the Respondent must have had the Complainant and its ELECTROLUX and ELECTROLUX SERVICE marks in mind when registering the disputed domain name.

Given the close resemblance between the disputed domain name and the Complainant's long term protected and widely recognized trademarks, along with the extensive goodwill and long-standing presence of the Complainant in the numerous markets, including in Ukraine, the Panel is convinced that the Respondent has intentionally chosen the disputed domain name to target and mislead Internet users.

As such, the Panel finds that the disputed domain name was registered in bad faith. Moreover, the use of the disputed domain name supports this finding.

After having reviewed the Complainant's screenshots of the website associated with the disputed domain name, offering repair services and displaying the Complainant's trademarks and logos, the Panel is convinced that the Respondent intentionally tries to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant and its trademarks as to the source, sponsorship, affiliation or endorsement of the Respondent's website. The Panel finds that such use of the disputed domain name falls into paragraph 4(b)(iv) of the .UA Policy (see the [WIPO Overview 3.0](#), section 3.1.4).

The fact that the disputed domain name no longer resolves to an active website does not prevent a finding of bad faith (see *TikTok Ltd. v. ThopTV*, WIPO Case No. [D2024-0093](#)).

The Panel also accepts that mail exchanges ("MX records") which are configured in connection with the disputed domain name, noting the composition of the disputed domain name, and its website, further supports the Panel's finding of bad faith. This case contains no evidence of illegal behavior, but the configuration of MX records presents the potential for an email phishing scheme impersonating the Complainant. The use of a domain name that is confusingly similar to a trademark in emails that do not originate with the trademark owner presents a risk to the reputation of a trademark and its owner (see *IPSOS v. Ipsos Market, ipsosmarketsurvey*, WIPO Case No. [D2023-2856](#)).

In view of the absence of any evidence to the contrary, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith. Hence the requirement set out in paragraph 4(a)(iii) of the .UA Policy has been satisfied.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the .UA Policy and 15 of the .UA Rules, the Panel orders that the disputed domain name, <electrolux-service.kyiv.ua>, be transferred to the Complainant.

/Anton Polikarpov/

Anton Polikarpov

Sole Panelist

Date: August 6, 2024