

ADMINISTRATIVE PANEL DECISION

AB Electrolux v. Domain Admin, Whois Privacy Corp
Case No. D2022-0164

1. The Parties

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

The Respondent is Domain Admin, Whois Privacy Corp, Bahamas.

2. The Domain Name and Registrar

The disputed domain name <aeg-esupport.com> is registered with Internet Domain Service BS Corp (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 18, 2022. On January 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 19, 2022, 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 has formally sent the notification to the Respondent of the Complaint, and the proceedings commenced on February 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 24, 2022.

The Center appointed Petra Pecar as the sole panelist in this matter on March 1, 2022. 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 joint stock company founded in 1901 and one of the world's leading producers of appliances and equipment for kitchen and cleaning products and floor care products. In 2005, the Complainant acquired the rights to the brand AEG, used for a variety of household products such as washing machines, refrigerators, dishwashers, ovens etc., which now forms part of the Electrolux Global Brand Licensing program.

The Complainant is the owner of a number of registered AEG trademarks worldwide, including the following:

- International Registration 802025 for AEG, registered on December 18, 2002;
- International Registration 802994B for "AEG Perfect in form and function", registered on January 16, 2003;
- International Registration 508107B (designating Russian Federation) for AEG (word/device), registered on November 28, 1986 and;
- International Registration 1338509 (designating Russian Federation) for AEG (word/device), registered on November 10, 2016.

The Complainant is also the owner of a number of generic Top-Level Domains ("gTLD") and country-code Top-Level Domains ("ccTLDs") containing the term "aeg", including <aeg.com> (registered on October 19, 1993) and <aeg.ru> (registered on July 2, 1998).

The disputed domain name was registered on April 5, 2018 through a privacy service. The Respondent is located in the Bahamas. According to the evidence provided by the Complainant, the disputed domain name resolved to a website purported to be that of an AEG repair and maintenance center located in Moscow, Russia.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name directly and entirely incorporates the Complainant's mark AEG along with the terms "e", a widely accepted abbreviation for "electronic" that indicates that something happens on or uses the Internet, and "support", separated by a dash, as well as the gTLD ".com", which terms do not avoid a finding of confusing similarity with the Complainant's registered trademark AEG.

Further, the Complainant has not found that the Respondent is commonly known by the disputed domain name, nor is there evidence that the Respondent has a history of using, or planning to use, the disputed domain name in connection with a *bona fide* offering of goods and services. It is clear that the intention of the disputed domain name registration is to take advantage of the Internet traffic generated due to the incorporation of the AEG mark in the disputed domain name.

The Respondent, by registering and using the disputed domain name which consists of the Complainant's mark AEG, would attract Internet users to its website where it purports to offer repair and maintenance services for AEG products. The incorporation of the AEG trademark in the disputed domain name and the layout of the website, which includes the Complainant's logo and color scheme, as well as references to the Complainant's products throughout, creates an overall impression that there is some connection with the Complainant and that the Respondent is authorized by the Complainant to offer repair and warranty services.

The Complainant refers to the test as set out in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) in determining whether the use of a trademark in a domain name by an authorised or non-authorised third party is regarded as a *bona fide* offering of goods or services, and contends that the Respondent does not meet all the conditions set out therein. Namely, the Respondent did not publish a disclaimer on the website linked to the disputed domain name; the Respondent is depriving the Complainant of reflecting its own mark (the protected mark of AEG) in the disputed domain name; and the Respondent presents itself as the trademark owner by using the Complainant's official AEG trademark and logo on their website. As a result, the Complainant contends that the Respondent does not meet all the criteria as set out in the *Oki Data* test. Accordingly, the Respondent's behaviour cannot be considered as a legitimate use of the disputed domain name.

Furthermore, the Complainant submits that the Respondent was aware of the Complainant's marks prior to the acquisition of the disputed domain name and the establishment of the Respondent's website. The Respondent has made no claims to either having any relevant prior rights of its own, or to having become commonly known by the disputed domain name. The Respondent did not make legitimate, noncommercial fair use of the disputed domain name, nor has the Complainant licensed or authorized the usage of its marks by the Respondent.

The Complainant's trademark registrations predate the registration of the disputed domain name and therefore it seems highly unlikely that the Respondent was not aware of the existence of the trademark and the unlawfulness of the registration of the disputed domain name. The Respondent has failed to respond to any communication attempts made by the Complainant, which should also be considered an indication of a registration in bad faith. The Complainant contends that the Respondent is taking advantage of its AEG mark by intentionally attempting to attract visitors to the Respondent's website by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation or endorsement of the Respondent's website or a product or service on the Respondent's website, which conduct is considered to be in bad faith.

For the above reasons, the Complainant requests the transfer of the disputed domain name from the Respondent to 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, the Complainant is required to prove each of the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trade mark 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 by the Respondent in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.2.1).

In the present matter, the Panel finds that the Complainant has established its rights in the AEG trademark based on its worldwide trademark registrations, which were registered prior to the disputed domain name on April 5, 2018.

The disputed domain name incorporates the AEG trademark, with the addition of a dash separating it from the letter “e”, which is usually used as an abbreviation for “electronic”, and the term “support”, as well as the gTLD “.com”. The fact that a domain name wholly incorporates a complainant’s trademark is sufficient to establish confusing similarity for the purpose of the Policy despite the addition of another term. Additional terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) do not prevent a finding of confusing similarity, as noted in section 1.8 of the [WIPO Overview 3.0](#), and confirmed in previous decisions (see, for example, *Sanofi-Aventis, Aventis Inc. v. Searchology, Domain Registrant*, WIPO Case No. [D2007-0889](#)). The addition of the term “esupport” does not prevent a finding of confusing similarity between the disputed domain name and AEG trademark.

It is well accepted practice by UDRP panels that a gTLD, such as “.com”, is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark (see section 1.11 of the [WIPO Overview 3.0](#)). Taking into account all of the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s AEG trademark.

Accordingly, the Panel finds that the Complainant has satisfied the first requirement that the disputed domain name is identical or confusingly similar to the Complainant’s registered trademark, under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under this second element of the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence to rebut that presumption. If the respondent fails to do so, a complainant is generally deemed to have satisfied the second element, as set out in paragraph 4(a)(ii) of the Policy. (See also [WIPO Overview 3.0](#), section 2.1.).

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that it has no affiliation to the Respondent, nor has it ever licensed or authorized the Respondent to use its AEG trademark. Furthermore, the Respondent is not commonly known by the disputed domain name, nor is there evidence that the disputed domain name is being used in connection with a *bona fide* offering of goods and services. Rather, the Complainant contends that the Respondent’s intention in registering the disputed domain name is to take advantage of the Internet traffic generated as a result of the incorporation of the Complainant’s mark in the disputed domain name.

At the time of filing of the Complaint, it seems that the disputed domain name resolved to a website intended to deceive Internet users into believing that they had arrived at the official website of an authorized AEG service and repair center located in Moscow, Russia. This is evident from the overall layout of the website, which is similar to that of the Complainant’s official sites, the inclusion of the Complainant’s AEG trademark and logo, as well as references to the Complainant’s products.

The Complainant contends that the Respondent is not an authorized licensee or distributor and that if it were, it would have known that the Complainant’s agreements with authorized partners strictly prohibit such partners from registering domain names which incorporate the Complainant’s trademarks. The Complainant goes on to refer to the conditions set out in the *Oki Data* test regarding the *bona fide* offering of goods and services by resellers, repairers or distributors using a complainant’s trademark, which use would be considered legitimate.

The Panel finds that the Respondent fails to meet the conditions set out in the *Oki Data* test and cannot be assessed as a legitimate repair service for the Complainant’s products. The Panel notes that the

Respondent does not publish a disclaimer on the disputed domain name regarding the relationship, or the lack thereof, between the Respondent and the Complainant. On the contrary, the Respondent's use of the Complainant's trademarks and logo creates the false impression that the Respondent is associated with the Complainant.

In this case, the Panel finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. Since the Respondent has failed to submit any evidence to the contrary, the Panel finds that the Respondent is not commonly known by the disputed domain name, nor that it has any rights or legitimate interests in such disputed domain name. Finally, it is clear that the Complainant is not in any way affiliated with the Respondent, nor is the Respondent making legitimate noncommercial or fair use of the disputed domain name.

Accordingly, the Panel finds that the second element of paragraph 4(a)(ii) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires the Complainant to demonstrate that the Respondent registered and is using the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.1, states that "bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark".

Further, paragraph 4(b) of the Policy stipulates that any one of the following non-exclusive circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

To the requirement of registration in bad faith, the Complainant contends that its trademarks predate the registration of the disputed domain name and that it is, therefore, unlikely that the Respondent was not aware of the existence of such marks and the unlawfulness of registering the disputed domain name. Moreover, the failure by the Respondent to respond to any communication attempts made by the Complainant should be a further indication of registration of the disputed domain name in bad faith.

Bad faith is demonstrated when the Respondent "*knew or should have known*" of a complainant's trademark rights and nevertheless registered a domain name in which it had no rights or legitimate interests (*Research In Motion Limited v. Privacy Locked LLC/Nat Collicot*, WIPO Case No. [D2009-0320](#) and *The Gap, Inc. v. Deng Youqian*, WIPO Case No. [D2009-0113](#)).

It is noted in Section 3.2.2 of [WIPO Overview 3.0](#) that UDRP panels have been prepared to infer that a respondent knew, or should have known, that the registration of a domain name would be identical or confusingly similar to a complainant's mark in circumstances where the complainant's mark is widely known, and also considering the global reach of internet and search engines.

Previous UDRP panels have held that the Complainant's AEG trademark has a clearly established reputation in the field of appliances and kitchen and cleaning equipment (see, for example, *AB Electrolux v. Whois Agent, Whois Privacy Protection Service, Inc./ gümüs servis (gümü? servis)* WIPO Case No. [D2016-0234](#)). Given the reputation of the Complainant's trademark and the purposeful inclusion of such mark in the disputed domain name, as well as on the website to which it resolved, the Panel finds that it is highly unlikely that the Respondent was unaware of the Complainant's mark at the time of registration of said domain name.

The Complainant further contends that the Respondent has taken advantage of its AEG trademark by intentionally attempting to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's AEG trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, or of a product or service offered on the Respondent's website. This is clear from the look and feel of the website linked to the disputed domain name, which mimics that of the Complainant's official websites in terms of layout and color scheme, as well as the inclusion of the Complainant's logo and registered AEG trademark on the site. In addition, the website includes a contact telephone number and email address purporting to be those of the Complainant.

In light of the above, the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith in accordance with paragraph 4(b)(iv) of the Policy.

Accordingly, the Panel finds that Complainant has satisfied 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 <aeg-esupport.com> be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: March 15, 2022