

ADMINISTRATIVE PANEL DECISION

AB Electrolux v. Domain Admin, Whois Privacy Corp.
Case No. D2022-0241

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 <service-electrolux.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 25, 2022. On January 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 27, 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 formally notified the Respondent of the Complaint, and the proceedings commenced on February 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 28, 2022. The Respondent did not submit any response. Accordingly, the Center sent notification of the Respondent's default on March 2, 2022.

The Center appointed Petra Pecar as the sole panelist in this matter on March 8, 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 2016, the Complainant had sales of SEK 121 billion and about 55,000 employees.

The Complainant has registered the trademark ELECTROLUX as a word mark and as a figurative mark in several classes in more than 150 countries, and alleges that the trademark ELECTROLUX has acquired status as a well-known trademark, with an enviable trans-border reputation. The Complainant provided evidence of a number of trademark registrations for the trademark ELECTROLUX, including the following:

- Russian Federation Trademark Registration No. 746368, registered on February 11, 2020, for ELECTROLUX;
 - Spanish Trademark Registration No. M0072039, registered on February 1, 1929, for ELECTROLUX;
 - Norwegian Trademark Registration No. 19494, registered on May 1, 1928, for ELECTROLUX;
 - United Kingdom Trademark Registration No. UK00000723408, registered on November 4, 1953, for ELECTROLUX;
 - United States of America Trademark Registration No. 0995587, registered on October 15, 1974, for ELECTROLUX;
 - International Trademark Registration No. 1182758, registered on October 10, 2013, for the figurative mark;
 - European Union Trademark Registration No. 006786081, registered on November 6, 2008, for the figurative mark:
- International Trademark Registration No. 836605, registered on March 17, 2004 for the figurative mark:

Electrolux The Complainant is also the owner of domain names <electrolux.com> (registered on April 30, 1996), <electrolux.org> (registered on April 8, 1997), <electrolux.net> (registered on April 8, 1997), <electrolux.info> (registered on July 31, 2001) and <electrolux.ru> (registered on July 2, 1998), as well as several domain names which include the term “service”, such as <electroluxservice.com> (registered on September 10, 1999), <electroluxservice.org> (registered on September 10, 1999) and <electroluxservice.uk> (registered on June 12, 2014).

The disputed domain name was registered on July 7, 2021 through a privacy service. According to the evidence provided by the Complainant, at the date of the Complaint the disputed domain name resolved to an active website impersonating the Complainant's official website. At the time of the decision, the disputed domain name resolves to a different active website at <service-remont-electrolux.com>, offering repair services for Electrolux appliances in the Russian language, which includes the Complainant's name and trademarks.

The Complainant attempted to contact the Respondent on December 13, 2021 by sending a cease-and-desist letter via the email address listed in the Whois records, and subsequently by sending a reminder on December 16, 2021, advising the Respondent that the unauthorized use of its trademarks within the disputed domain name violated their trademark rights. No reply was provided by the Respondent.

5. Parties' Contentions

A. Complainant

According to the Complainant, the Respondent has intentionally selected a specific word “service” in the disputed domain name, which is directly related to the Complainant's activity, to lead consumers to believe that the disputed domain name belongs to or is related to the Complainant. Furthermore, the Complainant states that the addition of the word “service” and the generic Top-Level Domain (“gTLD”) “.com” are insufficient to prevent a finding of confusing similarity with the Complainant's trademarks.

The Complainant states that the Respondent is not authorized to register or use the disputed domain name and has no rights or legitimate interests in the disputed domain name, that the Respondent is not commonly known by the disputed domain name, and that there is no evidence that the Respondent has a history of using or preparing to use the disputed domain name in connection with a *bona fide* offering of goods and services.

The Complainant states that it is impossible to say that the Respondent was unaware of the Complainant and the ELECTROLUX trademarks, and that the intention by registering the disputed domain name was to prevent the Complainant from exercising its legitimate rights over the well-known trademark ELECTROLUX. The Complainant further indicates that use of the disputed domain name in connection with an active website impersonating the Complainant's official website and using Complainant's trademarks and official pictures constitutes use of the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

Even if the Respondent did not file a Response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

"A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable", as indicated in paragraph 15(a) of the Rules.

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 ELECTROLUX trademark based on its worldwide registrations, which were registered prior to the disputed domain name on July 7, 2021.

The fact that a domain name wholly incorporates a complainant's mark 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](#).

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 ELECTROLUX 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 the 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 Respondent failed to provide any evidence of authorization to use the ELECTROLUX trademarks or to register domain names containing the trademark ELECTROLUX. There is no evidence that the Respondent is commonly known by the disputed domain name or any similar name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute, the Respondent has made use of, or made demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services.

The Panel finds that the nature of the disputed domain name, which consists of the Complainant’s trademark plus the additional word “service”, carries a risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant as the trademark owner (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Furthermore, the disputed domain name resolves to an active website impersonating the Complainant’s official website. In the Panel’s view, this cannot amount to a *bona fide* offering of goods or services within the meaning of paragraphs 4(c)(i) of the Policy or to a legitimate noncommercial or fair use of the disputed domain name as provided by article 4(c)(iii) of the Policy.

Based on the evidence in the Complaint, 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”.

The Policy describes several non-exhaustive circumstances demonstrating a respondent’s bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when, by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

Based on the information and the evidence provided by the Complainant, the Panel finds that at the time of registration of the disputed domain name, the Respondent was or should have been aware of the Complainant's trademarks, since the Respondent's registration of the disputed domain name occurred more than 90 years after the Complainant's registration of the earliest of its trademarks, and since a trademark register search, or even a simple online search prior to the registration of the disputed domain name, would have informed the Respondent of the existence of the Complainant's trademarks and the Complainant's extensive use of the ELECTROLUX trademark as a source identifier. Moreover, the construction of the disputed domain name itself, namely the combination of the Complainant's trademark and the word "service", is such to imply that the Respondent was aware of the Complainant and its services. It is of particular relevance in this case that the addition of the term "service" to the Complainant's ELECTROLUX trademark actually creates a likelihood of confusion between the disputed domain name and ELECTROLUX trademark, as it directly refers to the type of services that would be offered by the Complainant in relation to its products, being appliances and kitchen equipment.

The Respondent is using the disputed domain name by exploiting confusion with the ELECTROLUX trademark to attract Internet users. The unauthorized use and registration of the disputed domain name is intended to attract Internet users towards a website impersonating the Complainant's official website, using the Complainant's official trademark and logo as well as official pictures of products most likely obtained from the Complainant's website without its permission, and also texts, links and the general look that has been copied from the Complainant's official website. The obvious inference is that this was done for commercial gain, which therefore constitutes both bad faith registration and use.

As an additional factor that supports the finding of bad faith in this case, the Panel observes that the Respondent is concealing its identity in the registration of the disputed domain name through a privacy service (see section 3.6, [WIPO Overview 3.0](#); *Marlette Funding, LLC v. Whois Privacy Corp*, WIPO Case No. [D2018-1907](#)). When taken together with the Respondent's failure to respond to the Complainant's cease and desist letter or to explain itself in the course of these proceedings, the only reasonable inference, in the opinion of the Panel, is that the Respondent has registered and is using the disputed domain name in bad faith in terms of paragraph 4(b)(iv) of the Policy.

The Complaint demonstrates that there is no other reason for the use and registration of the disputed domain name than to take advantage of the reputation of the Complainant's trademarks, with the intent to deceive Internet users. The Respondent obviously knew of the Complainant's trademark when it registered the disputed domain name.

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.

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 <service-electrolux.com> be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: March 22, 2022