

## **ADMINISTRATIVE PANEL DECISION**

AB Electrolux v. Angel Micheal

Case No. D2022-0885

### **1. The Parties**

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

The Respondent is Angel Micheal, Netherlands.

### **2. The Domain Name and Registrar**

The disputed domain name <electroluxprofesssional.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 14, 2022. On March 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 16, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 17, 2022 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 March 18, 2022.

The Center verified that the Complaint together with the amendment to 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 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 19, 2022.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on May 18, 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 multinational appliance manufacturer.

The Complainant commercializes appliances and equipment for kitchen as well as cleaning and floor care products under the brand ELECTROLUX.

Among other registrations, the Complainant owns the following trademark registrations for ELECTROLUX:

- European Union trademark registration no 000077925, registered on September 16, 1998, in classes 3, 7, 8, 9, 11, 16, 20, 21, 35 and 37;
- United States trademark registration no 0195691, registered on March 3, 1925, in class 9.

The Complainant has also registered the domain name <electroluxprofessional.com> in 2004.

The disputed domain name <electroluxprofesssional.com> was registered on February 10, 2022, and resolves to an inactive website.

The MX records (*i.e.* the mail exchanger records specifying the mail server responsible for accepting email messages) for the disputed domain name suggest that it is or was possibly used for email communication.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademarks. The addition of the term "professional" in the disputed domain name does not change the overall impression of the designation as being connected to the Complainant's trademarks.

The Complainant contends that the Respondent has no rights and legitimate interest in the disputed domain name for the following reasons: (i) the Respondent is not commonly known by the disputed domain name; (ii) the Respondent is not affiliated nor authorized by the Complainant in any way; specifically no license nor authorization has been granted to the Respondent to make any use of the Complainant's trademarks, or apply for registration of the disputed domain name; (iii) the disputed domain name resolves to an inactive website misleading consumers into thinking that the website is operated or affiliated with the Complainant.

The Complainant further contends that the disputed domain name was registered and used in bad faith, for the following reasons: (i) the Respondent registered the disputed domain name many years after the Complainant has established a strong reputation and goodwill in its trademarks; (ii) the Respondent knew of the Complainant's brand and business and yet registered the disputed domain name that is confusingly similar to the Complainant's trademarks; (iii) the Respondent has not demonstrated any activity in respect of the disputed domain name as it resolves to an inactive website.

##### **B. Respondent**

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

## 6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent 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 in respect of the domain name; and
- (iii) the domain name registered by the respondent has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

The disputed domain name reproduces the Complainant's trademark ELECTROLUX in its entirety with no alteration and combines this trademark with the term "professional" (misspelled with three "s" instead of two).

UDRP panels consider that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element of paragraph 4(a) of the Policy (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

In the present case, the trademark ELECTROLUX is clearly recognizable in the disputed domain name. The mere addition of the misspelled descriptive term "professional" does not change the overall impression produced by the disputed domain name and does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

UDRP panels also accept that a Top-Level Domain, such as ".com", should be disregarded when assessing whether a domain name is identical or confusing similar to a trademark (see section 1.11 of the [WIPO Overview 3.0](#)).

The Complainant has thus satisfied the condition set forth in paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

Based on the information submitted by the Complainant, the Respondent does not appear to have rights or legitimate interests in respect of the disputed domain name, nor has the Complainant granted to the Respondent any authorization to use the disputed domain name.

There is also no evidence that the Respondent has used or is planning to use the disputed domain name for a *bona fide* offering of goods or services.

Finally, the Respondent did not file a response to the Complaint. The Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b). The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Complainant has satisfied the condition set out in paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

UDRP panels have recognized in past decisions the widespread use and renowned character of the Complainant's trademark ELECTROLUX (see *AB Electrolux v. Contact Privacy Inc. Customer 0162354394 /*

*Jose Eduardo, Utensilios E*, WIPO Case No. [D2021-2822](#) and *Electrolux v. Domain Administrator*, WIPO Case No. [D2021-0868](#)). The Panel accepts that the Complainant's trademark is well-known and that the Respondent most probably knew of the Complainant's trademark when he registered the disputed domain name. Thus, the Panel finds that the disputed domain name was registered in bad faith.

The Respondent does not appear to have used the disputed domain name in connection with an active website.

In certain circumstances, UDRP panels have held that passive holding of a domain name could amount to use in bad faith within the meaning of paragraph 4(a)(iii) of the Policy. Factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put (section 3.3 of the [WIPO Overview 3.0](#)).

In the case at hand, the trademark ELECTROLUX is distinctive and enjoys a widespread reputation. The Respondent failed to submit a Response or to allege any actual or contemplated use of the disputed domain name. Also, the Respondent did not provide accurate contact details. Indeed, the DHL shipment of the Written Notice could not be delivered. Finally, it is difficult to imagine what legitimate use the Respondent could make of the disputed domain name, given the fact that there is no relationship between the Respondent and the Complainant. If the disputed domain name was connected to an active website, consumers would be likely to mistakenly assume that such website is operated or endorsed by the Complainant, when such is not the case.

The misspelling of the term "professional" in the disputed domain name (where such term is spelled with three "s") also suggests an intent on the part of the Respondent to create confusion with the Complainant's official website operated under the domain name <electroluxprofessional.com>.

Finally, the MX records relating to the disputed domain name suggest that it is or has been used for email communication, possibly for phishing purposes. UDRP panels have inferred a bad faith behavior from the activation of MX servers, which can be used to create email addresses for phishing purposes (see *Kingfisher Investissements v. Brico Depot, Brico Depot*, WIPO Case No. [D2020-2702](#) and *Robertet SA v. Marie Claude Holler*, WIPO Case No. [D2018-1878](#)).

For the reasons set out above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith, and that the Complainant has satisfied the condition set forth in 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 <electroluxprofesssional.com> be transferred to the Complainant.

*/Anne-Virginie La Spada/*

**Anne-Virginie La Spada**

Sole Panelist

Date: June 1, 2022