

## **ADMINISTRATIVE PANEL DECISION**

AB Electrolux v. Hays Amos

Case No. D2022-1726

### **1. The Parties**

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

The Respondent is Hays Amos, United States of America (“U.S.”).

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

The disputed domain name <casaelectrolux.com> is registered with 101domain GRS Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 12, 2022. On May 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 12, 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 May 13, 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 MY 15, 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 May 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 7, 2022. On May 24 and 27, 2022, an individual acting on behalf of a company sent an email communication to the Center informing that they have received the Written Notice, but that the disputed domain name had been registered using their contact details without their authorization. On May 25, 2022, the Center emailed the Parties, notifying them of the Respondent identity issue. On June 8, 2022, the Center notified the Parties of the commencement of the panel appointment process.

The Center appointed George R. F. Souter as the sole panelist in this matter on June 16, 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 company, founded in 1901, and is one of the world's leading producers of appliances and equipment for kitchen and cleaning products, and floor care products, marketed under its ELECTROLUX trademark.

It is the owner of more than 300 registrations of its ELECTROLUX trademark in more than 150 countries, including four in the U.S., where the Respondent appears to be located. The oldest of these U.S. registrations number 0195691, was registered in 1920.

The disputed domain name was registered on August 9, 2021, and resolves to a web page stating: "404 NOT FOUND."

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

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

The Complainant alleges that the disputed domain name is confusingly similar to its ELECTROLUX trademark, containing its trademark and its entirety, accompanied merely by the descriptive word "casa".

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name, in particular that, to the best of the Complainant's knowledge, the Respondent is not generally known by the disputed domain name, and the Complainant has never granted permission to use its ELECTROLUX trademark in connection with the registration of a domain name, or otherwise.

The Complainant alleges that the disputed domain name was registered in bad faith, and is being used in bad faith.

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

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

#### **6. Discussion and Findings**

##### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant has sufficient trademark rights to its ELECTROLUX trademark for the purposes of these proceedings.

It is well established in prior decisions under the UDRP, with which the Panel agrees, that a generic Top-Level Domain ("gTLD") may generally be disregarded when comparing a trademark with a disputed domain name. The Panel considers the gTLD ".com" to be irrelevant in the circumstances of the present case, and finds that it may be disregarded here.

The Complainant's ELECTROLUX trademark is clearly recognizable in the disputed domain name, rendering the disputed domain name confusingly similar to the Complainant's trademark, and the mere addition of the descriptive word "casa" (meaning "house") in the disputed domain name do not detract from this finding.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in connection with the disputed domain name.

### **B. Rights or Legitimate Interests**

It is the consensus view of UDRP panels, with which the Panel agrees, that a *prima facie* case advanced by the complainant will generally be sufficient for the complainant to be deemed to have satisfied the requirement of paragraph 4(a)(ii) of the Policy, provided the respondent does not come forward with evidence demonstrating rights or legitimate interests in the domain name and the complainant has presented a sufficient *prima facie* case to succeed under paragraph 4(a)(ii) of the Policy.

The Respondent did not advance any claim of rights or legitimate interests in the disputed domain name to rebut this *prima facie* case.

Furthermore, the nature of the disputed domain name, incorporating the Complainant's well-known ELECTROLUX trademark, carries a risk of implied affiliation. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.5.1.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy, in connection with the disputed domain name.

### **C. Registered and Used in Bad Faith**

The Panel is of the view that the finding that a respondent has no rights or legitimate interests in a disputed domain name can lead, in appropriate circumstances, to a finding of registration of a disputed domain name in bad faith. Moreover, the disputed domain name was registered long after the Complainant first registered and began using its ELECTROLUX trademark. The Panel finds it likely that the Respondent had the Complainant's trademark in mind when registering the disputed domain name. The circumstance of the present case, in which the Panel regards it as self-evident that the Complainant's ELECTROLUX trademark was deliberately appropriated in the disputed domain name are such that the Panel concludes that a finding of registration in bad faith is justified, in connection with the disputed domain name and so finds.

Although the disputed domain name is not currently being commercially used, it is well-established in prior decisions under the Policy, since the decision in *Telstra Corporation v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), that the non-use of a disputed domain name does not preclude a finding of use in bad faith under the doctrine of passive holding. In the circumstances of the present case, the Panel considers that the Complainant has a legitimate concern in this regard, and finds that the disputed domain name is used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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, <casaelectrolux.com>, be transferred to the Complainant.

/George R. F. Souter/

**George R. F. Souter**

Sole Panelist

Date: June 30, 2022