

ADMINISTRATIVE PANEL DECISION

AB Electrolux v. Nguyen Manh

Case No. D2022-3789

1. The Parties

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

The Respondent is Nguyen Manh, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <electrolux.homes> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 11, 2022. On October 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 12, 2022, the Registrar transmitted by email to the Center its verification disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Whois Privacy, Private by Design, LLC, United States of America) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 12, 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 October 12, 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 October 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 7, 2022.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on November 14, 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, together with its subsidiaries and affiliated companies is a multinational company based in Sweden. Having operated for over 100 years, the Complainant is one of the major global suppliers of appliances and equipment for kitchen, along with related household products, which the Complainant offers under its ELECTROLUX mark.

In 2021, Electrolux Group had sales of SEK 126 billion and about 52,000 employees.

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

- International Trademark registration for ELECTROLUX No. 836605 registered on March 17, 2004;
- International Trademark registration for ELECTROLUX No. 1260775 registered on January 27, 2015. (including Viet Nam, where the Respondent is registered.)

The Complainant is also owner of numerous domain names, that are including the trademark ELECTROLUX, e.g., <electrolux.com> and <electrolux.vn> and many others.

The Respondent registered the disputed domain name <electrolux.homes> on September 23, 2022 and is using the disputed domain name to attract customers to its website where the Respondent offers repair and maintenance service for Electrolux products.

5. Parties' Contentions

A. Complainant

The arguments put forward by the Complainant can be summarized as follows:

On the first element of the Policy the Complainant claims that the disputed domain name incorporates the Complainant's ELECTROLUX mark in its entirety with the generic Top-Level Domain ("gTLD") ".homes".

On the second element of the Policy the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the disputed domain name. The Respondent uses the disputed domain name without complying with the requirements for a *bona fide* offering of goods and services as set out in *Okidata Americas, Inc v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), thus creating the overall impression that the Respondent is, or is affiliated with the Complainant. The Respondent has not been authorized to register the disputed domain name.

On the third element of the Policy, the Complainant asserts that ELECTROLUX is a globally well-known trademark, including Viet Nam. Consequently, it is highly unlikely that the Respondent was not aware of the rights the Complainant has in the ELECTROLUX trademark and of the value of the said trademark, at the time of the registration. The Complainant thus concludes that the registration of the disputed domain name by the Respondent was made in bad faith by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of Respondent's website.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "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".

It has been a consensus view in previous UDRP decisions that 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 section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

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

A. Identical or Confusingly Similar

The Complainant has established rights in the ELECTROLUX trademark.

The disputed domain name contains the Complainant's ELECTROLUX followed by the gTLD ".homes".

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 section 1.11.1 of [WIPO Overview 3.0](#)).

The disputed domain name incorporates the ELECTROLUX trademark in its entirety without the addition of any other elements.

Therefore, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant, under the second requirement of paragraph 4(a)(ii) of the Policy, needs to establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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 (see section 2.1 of the [WIPO Overview 3.0](#)).

The Complainant has provided evidence that the disputed domain name resolves to a website displaying the Complainant's ELECTROLUX mark and purportedly offering repair services for the Complainant's products. However, the Respondent does not comply with all requirements under the "Oki Data test" which would be a prerequisite to rights or legitimate interests in respect of the disputed domain name (see section 2.8.1. of [WIPO Overview 3.0](#)). The Respondent failed to accurately and prominently disclose its lack of relationship with the Complainant. The Respondent is trying to corner the market depriving the trademark owner of reflecting its own trademark in a domain name. There is not in place any agreement, express or otherwise, between the parties allowing the registration or use of the disputed domain name. By using the disputed domain name which is identical to the Complainant's trademarks for repair services only the Respondent creates a risk of misrepresentation. In addition, the disputed domain name carries a high risk of implied affiliation with the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Therefore, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant, under the third requirement of paragraph 4(a)(iii) of the Policy, needs to establish that the Respondent has been registered and is being used in bad faith.

[WIPO Overview 3.0](#), section 3.2.2 reads: "Knew or should have known: Noting the near instantaneous and global reach of the Internet and search engines and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known that its registration would be identical or confusingly similar to a complainant's mark."

The Complainant has been using the ELECTROLUX mark for many years and has rights in many trademarks. The trademark ELECTROLUX is a well-known trademark at least in key markets all over the world and is known also in Viet Nam. The Complainant has provided evidence to support this argument. Using the disputed domain name for offering repair services for Complainant's products underlines that the Respondent knew the Complainant's trademarks.

Lastly, the Respondent hid its identity by using a privacy/proxy registration service. This is an additional indicator of bad faith in the circumstances of this case (see section 3.6 of the [WIPO Overview 3.0](#)).

Under these circumstances, the Panel therefore finds that the Respondent registered and is using the disputed domain name in bad faith.

Thus, 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 <electrolux.homes> be transferred to the Complainant.

/Christian Gassauer-Fleissner/

Christian Gassauer-Fleissner

Sole Panelist

Date: November 23, 2022