

ADMINISTRATIVE PANEL DECISION

AB Electrolux v. Name Redacted, Loja Electrolux
Case No. D2023-1306

1. The Parties

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

The Respondent is Name Redacted¹, Loja Electrolux, Brazil.

2. The Domain Name and Registrar

The disputed domain name <oficialectrolux.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 27, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (a privacy service and customer number) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 28, 2023, 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 April 3, 2023.

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”).

¹ The name of the Respondent appears to have been used without its consent when registering the disputed domain name. In light of potential identity theft, the Panel has redacted the Respondent's registrant name, but not its alleged organization name, from the decision. However, the Panel has attached as Annex 1 to this decision an instruction to the corresponding Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the corresponding Registrar as part of the order in this proceeding, and has indicated that Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2023. The Center received a communication from the Respondent's legal representative on April 24, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on April 28, 2023. 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 produces appliances and equipment for kitchen, cleaning and floor care products. It owns trademarks in multiple jurisdictions, including International trademark registration number 836605 for a semi-figurative ELECTROLUX mark (the "ELECTROLUX logo"), registered on March 17, 2004, designating multiple jurisdictions, specifying goods and services in multiple classes. That trademark registration remains current. The Complainant has also registered multiple domain names, including <electrolux.com>, registered on June 1, 2006, that it uses in connection with a website where it provides information about itself and its products.

The Respondent's registrant name as listed in the Registrar's Whois database is that of a company that sells construction materials in Brazil. The organization name is listed in the Whois as "Loja Electrolux", which means "Electrolux Store" in Portuguese.

The disputed domain name was created on July 5, 2022. It initially resolved to a website in Portuguese that prominently displayed the ELECTROLUX logo and offered for sale the Complainant's kitchen and cleaning appliances as well as third party brand smartphones at discount prices. The site offered free delivery within Brazil and displayed prices in BRL. The copyright notices claimed rights in the name of "Loja Electrolux" or simply "Electrolux", followed by the Respondent's company registration number and address.

The Respondent filed a police report regarding the website associated with the disputed domain name on July 6, 2022. In the report, it alleged that it had been contacted by multiple persons enquiring about the whereabouts of goods that they had ordered on the website associated with the disputed domain name.

At the present time, the disputed domain name does not resolve to any active website; rather, it is passively held.

The Registrar confirmed that the Registration Agreement for the disputed domain name is in English.

5. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant's ELECTROLUX trademark.

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. It is clear that the disputed domain name registration is intended to take undue advantage of the well-known Electrolux brand. The Respondent has never been a licensee of the Complainant and does not have any rights to use the Complainant's trademark. There is no active website under the disputed domain name.

The disputed domain name was registered and is being used in bad faith. The Electrolux brand is a globally, well-known trademark in the home appliance industry. The Respondent has failed to provide a Response or

evidence of actual or contemplated use of the disputed domain name in good faith. Further, the Respondent attempted to conceal its identity using a proxy service.

B. Respondent

The Respondent (*i.e.*, the company whose name was used to register the disputed domain name) submits that the website associated with the disputed domain name was fraudulently used by criminals who used the disputed domain name to scam consumers. Unfortunately, this is not uncommon in Brazil: the criminal creates a website, identical in format to that of another company (in this case, Electrolux) and uses it to display high-value electronic products at a price far below their market value, which attracts many consumers. The only form of payment available is cash, which differs from the usual forms of payment in Brazil, where such products are usually sold in instalments. In reality, the products were never for sale and the intention was only to obtain an undue advantage over the “buyers”. In this specific case, the site was online for only 24 hours, which was enough to fool several people. The criminals also used the Respondent’s company registration number at the bottom of the website to give a higher appearance of authenticity. This has caused inconvenience to the Respondent, which began to receive calls from dissatisfied “customers” that did not receive the products that they had ordered. The Respondent has no relationship with the sale of electronic products; rather, it sells construction materials. Therefore, it has no interest in claiming the disputed domain name.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements with respect to each disputed domain name:

- (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

Based on the evidence presented, the Panel finds that the Complainant has rights in the semi-figurative ELECTROLUX mark. For technical reasons, the disputed domain name cannot include the figurative elements of that trademark, hence these other elements can be disregarded in the comparison between the disputed domain name and the ELECTROLUX mark. See [WIPO Overview 3.0](#), section 1.10.

The disputed domain name wholly incorporates the textual element of the ELECTROLUX mark. It also includes the word “oficial” (meaning “official” in Portuguese) as its initial element. However, this addition does not avoid a finding of confusing similarity because the textual element of the mark remains clearly recognizable within the disputed domain name. See [WIPO Overview 3.0](#), section 1.8.

The only additional element in the disputed domain name is a generic Top-Level Domain (“gTLD”) extension (“.com”). As a standard requirement of domain name registration, this element may be disregarded in the comparison with a mark for the purposes of the first element of paragraph 4(a) of the Policy unless it has some impact beyond its technical function, which is not the case here. See [WIPO Overview 3.0](#), section 1.11.

For the above reasons, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first condition in paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the respondent has rights or legitimate interests in a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to [the respondent] of the dispute, [the respondent's] use of, or 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; or
- (ii) [the respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the respondent has] acquired no trademark or service mark rights; or
- (iii) [the respondent is] making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

With respect to the first and third circumstances, the disputed domain name, which combines the Portuguese word for “official” with the Complainant’s name “Electrolux”, formerly resolved to a website that was presented as an official website of the Complainant. However, the Complainant submits that the Respondent has never been a licensee of the Complainant and does not have any rights to use the Complainant’s trademark. Further, the website offered for sale products of third parties. At the present time, the disputed domain name does not resolve to any active website. The Panel does not consider either the former or the current use to be a use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor is either a legitimate noncommercial or fair use of the disputed domain name.

With respect to the second circumstance, the Respondent’s registrant name as listed in the Registrar’s Whois database is not the disputed domain name. Although the organization name is listed in the Whois and displayed on the website associated with the disputed domain name as “Loja Electrolux” (meaning “Electrolux Store” in Portuguese), nothing in the record indicates that the Respondent has been commonly known by the disputed domain name.

In view of the above circumstances, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent did not attempt to rebut that *prima facie* case. Rather, it submitted that the disputed domain name had initially been used for fraud. The Panel recalls that, as an illegal activity, fraud can never confer rights or legitimate interests.

Therefore, based on the record of this proceeding, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has satisfied the second element in paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that certain circumstances shall be evidence of the registration and use of a domain name in bad faith but these circumstances are not exhaustive.

With respect to registration, the disputed domain name was registered in 2022, years after the registration of the Complainant’s ELECTROLUX mark. The disputed domain name wholly incorporates the textual element of the ELECTROLUX mark, preceded by a word meaning “official” in Portuguese. As soon as it was registered, the disputed domain name began resolving to a website that displayed the ELECTROLUX logo and images of the Complainant’s products. In view of these circumstances, the Panel finds that the Respondent was aware of the Complainant and its ELECTROLUX mark and targeted that mark when it registered the disputed domain name.

With respect to use, the Respondent is passively holding the disputed domain name but that circumstance does not preclude a finding of use in bad faith. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). In the present dispute, the disputed domain name combines a word meaning “official” in Portuguese with the textual component of the Complainant’s ELECTROLUX mark and it formerly resolved to a website that was falsely presented as an official website of the Complainant. The person who registered the disputed domain name used the name of the Respondent, and the former website displayed the Respondent’s company registration number, all apparently without permission. These are all indicia of use of the disputed domain name in bad faith.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) 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, <oficialectrolux.com> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: May 2, 2023