1. **Procedural History**

On 1 November 2018, the Complainant filed a Complaint in English in respect of the domain name <shelectrolux.cn> (the “disputed domain name”) with Hong Kong International Arbitration Centre (“HKIAC”) pursuant to the CNNIC ccTLD Dispute Resolution Policy (“CNDRP”) implemented by CNNIC on 21 November 2014. The Complainant elected to have the case decided by a single member panel and requested that the language of the proceedings be English. On the same day, HKIAC acknowledged receipt.

On 2 November 2018, HKIAC sent an email to the Registrar requesting verification of the disputed domain name registration information. On 5 November 2018, the Registrar replied to HKIAC providing details for the Respondent that differed from those in the Complaint. On the same day, HKIAC sent an email to the Complainant inviting it to amend the Complaint. On the following day, the Complainant filed an amended Complaint. On 12 November 2018, HKIAC acknowledged receipt.

On 13 November 2018, HKIAC sent an email in Chinese to the Respondent forwarding the amended Complaint and notifying the commencement of proceedings. In accordance with the CNDRP, the CNNIC ccTLD Dispute Resolution Policy Rules (the “Rules”) and the HKIAC Supplemental Rules for CNNIC CNDRP (the “Supplemental Rules”), the Respondent had twenty (20) days to submit a Response (that is, on or before 3 December 2018). The Respondent was also entitled to reply to the Complainant’s language request within five calendar days (that is, on or before 18 November 2018). On 13 November 2018, the Respondent sent two emails to HKIAC and another email to the Complainant but did not file a formal Response. Accordingly, on 4 December 2018, HKIAC notified the Respondent’s default.

On 4 January 2019, HKIAC informed the parties of the appointment of Prof. Matthew Kennedy as sole panelist in this dispute.
2. **Factual background**

The Complainant is a producer of appliances and equipment for kitchen and cleaning products and floor care products, founded in 1901. The Complainant is the owner of trademark registrations for ELECTROLUX in multiple jurisdictions, including international trademark registration number 836605, registered on 17 March 2004, designating multiple jurisdictions including China, specifying goods and services in multiple classes, including cookers and kitchen appliances and repair services for such goods, and Chinese trademark registration number 11314983, registered on 7 January 2014, specifying light-emitting diodes (LED) in class 9. Those trademark registrations remain current. The Complainant has also registered domain names including <electrolux.com> (created on 30 April 1996) and <electrolux.com.cn> (created on 6 June 1998) that it uses in connection with official websites where it provides information about itself and its products.

The Respondent is an individual resident in Jieyang, Guangdong Province. A reverse WhoIs search conducted by the Complainant shows that the Respondent registered the domain names <boschsh.cn> on 21 May 2018, <siemensrqz.cn> on 26 May 2018 and <boschbgl.cn> on 28 May 2018.

The disputed domain name was registered on 26 May 2018. It resolves to a website in Chinese for so-called Shanghai Electrolux gas stove repair. The website provides information on repair of Electrolux gas stoves and displays links to the Electrolux gas stove official website, Electrolux gas stove repair and Shanghai Electrolux gas stove repair telephone.

The Registrar has verified that the Respondent is the registrant of the disputed domain name. The Panel has received no information verifying that the Respondent has cancelled or transferred the registration.

3. **Parties’ Contentions**

A. Complainant

The Complainant’s contentions may be summarized as follows:

i. The disputed domain name is confusingly similar to the Complainant’s ELECTROLUX mark. The disputed domain name directly incorporates that mark. The “sh” is most likely an abbreviation of Shanghai.

ii. The Respondent has no right or legitimate interest in respect of the disputed domain name. The Complainant has not found that the Respondent is commonly known by the disputed domain name. There is no evidence that the Respondent has a history of using, or preparing to use, the disputed domain names in connection with a bona fide offering of goods or services. The Respondent does not claim to have made legitimate, non-commercial use of the disputed domain name.

iii. The Respondent registered or is using the disputed domain name in bad faith. The Respondent has registered the disputed domain name in bad faith by intentionally adopting the Complainant’s widely known mark in violation of the
Complainant’s rights. The Respondent has also engaged in a pattern of abusive registrations incorporating third party trademarks.

B. Respondent

The Respondent advised HKIAC that he had not intended to register the disputed domain name and that he was willing to transfer it. He then advised that he had abandoned the disputed domain name and asked whether that resolved the matter. Meanwhile, the Respondent advised the Complainant that the disputed domain name was not allowed and asked the Complainant to cancel the Complaint.

4. Findings

A. Language of the Proceedings

Article 8 of the Rules provides that, “[u]nless otherwise agreed by the Parties or determined in exceptional cases by the Panel, the language of the domain name dispute resolution proceedings shall be Chinese.” This Rule does allow the Panel in some circumstances to determine that a language other than Chinese shall be the language of the proceedings. See, for example, Standard Life Employee Services Limited and Aberdeen Asset Management Plc v 申中朝, HKIAC Case no. DCN-1700750.

The Complainant submitted the Complaint in English with a request that the Panel determine the language of the proceedings to be English. Its main argument is that, being a Swedish entity, the Complainant is not in a position to conduct these proceedings in Chinese without a great deal of additional expense and delay due to the need for translation of the Complaint and the supporting Annexes.

The Panel observes that, despite having received notice of the Complaint and of the Complainant’s language request in Chinese, the Respondent has not expressed an interest in filing a formal Response or in commenting on the language of the proceeding. Moreover, after receiving notice of the language request, the Respondent sent emails to HKIAC in Chinese and an email to the Complainant in English, which indicates that he is able to communicate in both languages.

Article 31 of the Rules requires the Panel, inter alia, to “ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case” and to “ensure that the proceedings take place with due expedition”. Given the circumstances in these proceedings, the Panel considers that requiring the translation of the evidence into Chinese would create an undue burden for the Complainant and unduly delay the proceedings, while rendering this decision in English does not create unfairness for either party.

Having considered all the circumstances above, the Panel determines that the language of these proceedings shall be English but that the Panel will accept all communications as filed in either Chinese or English, without translation.
B. Substantive Issues

Article 8 of CNDRP provides that a complaint against a registered domain name shall be supported if the following conditions are fulfilled:

i. The disputed domain name is identical with or confusingly similar to the Complainant’s name or mark in which the Complainant has civil rights or interests;

ii. The disputed domain name holder has no right or legitimate interest in respect of the domain name or major part of the domain name;

iii. The disputed domain name holder has registered or has been using the domain name in bad faith.

Article 7 of CNDRP states that the complainant and the respondent shall bear the burden of proof for their own claims. With reference to the Complaint and the attached documents, the Panel of this case considers that:

Identical or Confusing Similarity

On the basis of the evidence submitted, the Panel finds that the Complainant has rights in the ELECTROLUX trademark.

The disputed domain name wholly incorporates the ELECTROLUX trademark as its only distinctive element. It also includes the letters “sh” as its initial element, which may be understood as an abbreviation of “Shanghai”. However, as a mere geographical term, this is insufficient to prevent a finding of confusing similarity between a domain name and a trademark. See Playboy Enterprises International, Inc. v. Zeynel Demirtas, WIPO Case No. D2007-0768. In a side-by-side comparison, the ELECTROLUX trademark remains clearly recognizable within the disputed domain name.

The disputed domain name also includes the country code Top-Level Domain (“ccTLD”) suffix “.cn”. A ccTLD suffix is generally incapable of dispelling confusing similarity between a domain name and a trademark.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s ELECTROLUX trademark.

Rights or Legitimate Interests of the Respondent

The disputed domain name, which is confusingly similar to the Complainant’s ELECTROLUX trademark, resolves to a website that advertises repair services for the Complainant’s gas ovens. The website purports to provide a link to the Complainant’s official website and also offers services provided by so-called Shanghai Electrolux gas stove repair. This gives the false impression that the website is approved by, or affiliated with, the Complainant. Nowhere does the website disclose the lack of relationship between the operator of the website and the Complainant. These facts show that the Respondent’s use of the disputed domain name is not in connection with a bona fide offering of goods or services. See Oki Data Americas, Inc. v. ASD, Inc., WIPO Case No.
D2001-0903. Accordingly, the Panel does not find that the Respondent’s use falls within the first circumstance of paragraph 4(c) of the Policy.

The Registrar’s WhoIs database indicates that the Respondent’s name is “郑佳雄”, which is neither the disputed domain name nor a major part of it. Apart from the website itself, there is no evidence that the Respondent has been known as “Shanghai Electrolux gas oven repair”. There is no evidence that the Respondent has been commonly known by the disputed domain name nor a major part of it.

The Respondent is using the disputed domain name in connection with the advertising of repair services. There is no evidence that this is a legitimate noncommercial or fair use of the disputed domain name.

Based on the evidence, the Panel considers that the Complainant has made a prima facie case that the Respondent has no right or legitimate interest in respect of the disputed domain name or major part of it. The Respondent did not rebut that prima facie case because it did allege any right or legitimate interest in the disputed domain name or a major part of it.

Accordingly, the Panel finds that the disputed domain name holder has no right or legitimate interest in respect of the disputed domain name or major part of the disputed domain name.

**Bad Faith**

Article 9 of CDNRP provides certain examples of circumstances that may be evidence of the registration and use of a domain name in bad faith. The third circumstance is as follows:

“The disputed domain name holder has registered or acquired the domain name for the purpose of damaging the Complainant’s reputation, disrupting the Complainant’s normal business or creating confusion with the Complainant’s name or mark so as to mislead the public”.

In the present case, the disputed domain name wholly incorporates the Complainant’s ELECTROLUX trademark, with no additional elements besides the letters “sh” and a TLD suffix, the latter of which is a technical requirement of domain name registration. The disputed domain name was registered long after the Complainant obtained registration of its ELECTROLUX trademark. The disputed domain name resolves to a website that refers to the Complainant’s products. This all gives rise to the inference that the Respondent was aware of the Complainant’s ELECTROLUX trademark at the time of registration of the disputed domain name. That inference is confirmed by the fact that the Respondent registered three other domain names that wholly incorporate a third party trademark around the same time as it registered the disputed domain name.

The disputed domain name is used in connection with a website that advertises repair services for the Complainant’s gas ovens. The website purports to provide a link to the Complainant’s official website and also offers services provided by so-called Shanghai
Electrolux gas stove repair. This gives the false impression that the website is approved by, or affiliated with, the Complainant. Nowhere does the website disclose the lack of relationship between the operator of the website and the Complainant. Therefore, the Panel finds that the Respondent has registered the disputed domain name for the purpose of creating confusion with the Complainant’s mark so as to mislead the public.

The Respondent argues that he did not intend to register the disputed domain name. However, the Respondent remains the registrant of the disputed domain name and is therefore responsible for the registration as well as the use that is made of it.

Accordingly, the Panel finds that the disputed domain name holder has registered and has been using the disputed domain name in bad faith.

5. Decision

In conclusion, the Panel finds that the Complainant has satisfied all three elements laid down in Article 8 of CNDRP. Therefore, the Panel supports the Complaint and orders that the disputed domain name be transferred to the Complainant.

综上所述，专家组认为本案投诉符合《解决办法》第八条规定的三个条件，即“被投诉的域名与投诉人享有民事权益的名称或者标志相同，或者具有足以导致混淆的近似性；被投诉的域名持有人对域名或者其主要部分不享有合法权益；被投诉的域名持有人对域名的注册或者使用具有恶意”。

专家组决定支持投诉人的投诉请求，裁定本案争议域名转移给投诉人。

Panelist: Prof. Matthew Kennedy

Date: 8 January 2019