ADMINISTRATIVE PANEL DECISION
Case No. DCN-1800864

Complainant: AB Electrolux
Respondent: 李清泉・天津盛恒科技有限公司 (Tianjin Shenghen Technology Co. Ltd)
Domain Name: tjelectrolux.cn
Registrar: 成都西维数码科技有限公司 (Chengdu West Dimension Digital Technology Co., Ltd.).

1. Procedural History

The Complainant filed the Complaint with the Hong Kong International Arbitration Centre (HKIAC) on 7 November 2018, in accordance with the CNNIC ccTLD Dispute Resolution Policy (the "CNDRP") issued by CNNIC on 21 November 2014.

On 8 November 2018, the HKIAC confirmed receipt of the Complaint, and then sent an email to the Registrar of the Domain Name requesting verification in connection with the relevant information of the Domain Name at issue.

On 8 November 2018, the Registrar of the Domain Name confirmed that the Respondent is 李清泉・天津盛恒科技有限公司 (Li Qing Quan, Tianjin Shenghen Technology Co. Ltd) and the Domain Name is registered with 成都西维数码科技有限公司 (Chengdu West Dimension Digital Technology Co., Ltd.).

On 13 November 2018, the HKIAC sent the Respondent a written notice of complaint which involved a notification that a complaint concerning the Domain Name <tjelectrolux.cn> was submitted against the Respondent and a requirement to submit a Response within 20 days from 3 December 2018, and forwarded the Complaint (along with its Annexes) to the Respondent pursuant to the CNDRP, the CNNIC ccTLD Dispute Resolution Policy Rules (the “Rules”) and the HKIAC Supplemental Rules for CNNIC CNDRP (the “Supplemental Rules”). The formal date of the commencement of the administrative proceeding on was 13 November 2018.

On 4 December 2018, the HKIAC confirmed that it did not receive a Response from the Respondent in respect of the Complaint concerning the Domain Name within the required period.
On 3 January 2019, the HKIAC appointed Dr Yijun TIAN as the sole Panelist for this Domain Name dispute, and the case files were transferred to the Panelist, on the same day.

2. **Factual background**

Complainant, AB Electrolux, is a company incorporated in Stockholm, Sweden. Complainant is a world leading producer of appliances and equipment for kitchen and cleaning products and floor care products, which was founded in 1901 (Annex 5 to the Complaint). In 2014, Electrolux had sales of SEK 112 billion and about 60,000 employees (Annex 5 to the Complaint).

Complainant has exclusive rights in the ELECTROLUX trademark globally. Complainant is the exclusive owner of well-known registered trademark ELECTROLUX in more than 150 countries, including China (since 1997; see Annex 7 to the Complaint). Complainant has also registered the trademark ELECTROLUX as a domain name under almost 700 gTLDs and ccTLDs worldwide, among these: <electrolux.com> (created on April 30, 1996) and a local Chinese website <electrolux.com.cn> (created on June 6, 1998). (Annex 6 to the Complaint).

Respondent is 李清泉 · 天津盛恒科技有限公司 (Li Qing Quan, Tianjin Shengheng Technology Co. Ltd) of Tianjin, China. The disputed domain name <tjelectrolux.cn> was registered on March 24, 2017, long after the ELECTROLUX trademark became internationally well-known (Annex 5 to the Complaint).

3. **Parties’ Contentions**

A. Complainant

The Complainant’s contentions may be summarized as follows:

Complainant contends that the disputed domain name <tjelectrolux.cn> is identical or confusingly similar to its trademark ELECTROLUX.

Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain name.

Complainant contends that the disputed domain name was registered and are being used in bad faith.

Complainant requests that the disputed domain name <tjelectrolux.cn> be transferred to it.

B. Respondent

Respondent did not reply to Complainant’s contentions.

4. **Discussion and Findings**
4.1. Language of the Proceeding

The language of the registration agreement for the disputed domain name is Chinese. 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.

From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondent to the effect that the language of the proceedings should be English. Complainant filed initially its Complaint in English, and has requested that English be the language of the proceedings for the following reasons:

(a) If Respondent will default in these proceedings Respondent will not suffer no prejudice if English is made the language of the proceedings. The word “electrolux” has no literature meaning in Chinese.

(b) Complainant cannot see that Respondents’ right will be detrimental if the case proceeded in English. 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.

(c) In the current case Respondent has not replied nor even made an attempt to reply to the cease and desist letter demonstrating that they did not understand its content. It is very likely that Respondent won’t respond to the Complaint either.

(d) The website also shows English content such as “Electrolux refrigerator repair service center” and wordings such as “HAVE A NEW HOME APPLIANCES SALE”

Respondent did not make any submissions with respect to the language of the proceedings and did not object to the use of English as the language of the proceedings.

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”.

The Panel has taken into consideration the facts that Complainant is a company from Sweden, and Complainant will be spared the burden of working in Chinese as the language of the proceedings. The Panel has also taken into consideration the facts that the disputed domain name includes Latin characters “tj” and “ electrolux” (Compagnie Gervais Danone v. Xiaole Zhang, WIPO Case No. D2008-1047).

On the record, Respondent appears to be a Chinese company and is thus presumably not a native English speaker, but the Panel finds adequate grounds in the present proceeding to accept Complainant’s request and to proceed in English. In particular, the Panel notes
that, based on the evidence provided by Complainant, (a) the disputed domain name <tjelectrolux.cn> is registered in Latin characters, rather than Chinese script; (b) Complainant has sent the cease and desist letter in English, and Respondent has never answered, neither to reply to the issues raised in the letter, nor to state that he does not understand the content; (c) the website at the disputed domain name is a mainly Chinese-based website, but the webpages do contain some English words, such as “Electrolux refrigerator repair service center” (which is next to ELECTROLUX logo), “NEW HOME APPLIANCE MARKET”, “Home”, “Products” and so forth in the website directory structure (Annex 9 to the Complaint); (d) the Center has notified Respondent of the proceedings in both Chinese and English, and Respondent has indicated no objection to Complainant’s request that English be the language of the proceedings; (e) the Center informed Respondent that it would accept a Response in either English or Chinese.

Considering these circumstances, the Panel finds the choice of English as the language of the present proceeding is fair to both parties and is not prejudicial to either one of the parties in his or her ability to articulate the arguments for this case. Having considered all the matters above, the Panel determines that English shall be the language of the proceeding, and the decision will be rendered in English.

4.2. Discussion and Findings

As to the case, 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**

The Panel finds that Complainant has rights in the ELECTROLUX trademark acquired through registration. The ELECTROLUX trademark has been registered worldwide including in China, and Complainant has a widespread reputation as a world leading producer of appliances and equipment for kitchen and cleaning products and floor care products.

The disputed domain name <tjelectrolux.cn> comprises the ELECTROLUX trademark in its entirety. The disputed domain name only differs from Complainant’s trademark by the addition of the characters “tj” to the trademark ELECTROLUX. This does not seem to
eliminate the similarity between Complainant’s registered trademark and the disputed domain name.

Generally a respondent may not avoid likely confusion by appropriating another’s entire mark and adding descriptive or non-distinctive matter to it. (The Argento Wine Company Limited v. Argento Beijing Trading Company, WIPO Case No. D2009-0610; PCCW-HKT DataCom Services Limited v. Yingke, ADNDRC Case No. HK0500065).

The mere addition of the descriptive term “tj” prefix to Complainant’s trade mark fails to distinguish to the Panel the disputed domain name from Complainant’s trademark. By contrast, it may increase the likelihood of confusion. The prefix “tj” is an abbreviation of Tianjin (the city of Respondent) is located. Internet users who visit “www.tjelectrolux.cn” are likely to be confused and may falsely believe that “www.tjelectrolux.cn” is an online shop operated by Complainant for selling Electrolux-branded products or services in Tianjin. Thus, the Panel finds that the addition is not sufficient to negate the confusing similarity between the disputed domain name and the ELECTROLUX trademark.

The Panel therefore holds that the Complaint fulfils the first condition of Article 8 of CNDRP.

**Rights or Legitimate Interests of the Respondent**

Complainant is the exclusive owner of famous and well-known registered trademark ELECTROLUX in more than 150 countries, including China (since 1997; Annex 7 to the Complaint), which long precedes Respondent’s registration of the disputed domain name (March 24, 2017).

According to Complainant, Complainant is a world leading producer of appliances and equipment for kitchen and cleaning products and floor care products. In 2014, Electrolux had sales of SEK 112 billion and about 60,000 employees (Annex 5 to the Complaint).

Moreover, Respondent is not an authorized dealer of Electrolux-branded products or services. Complainant has therefore established a prima facie case that Respondent has no rights or legitimate interests in the disputed domain name and thereby shifted the burden to Respondent to produce evidence to rebut this presumption (The Argento Wine Company Limited v. Argento Beijing Trading Company, supra; Do The Hustle, LLC v. Tropic Web, WIPO Case No. D2000-0624; Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455).

Based on the following reasons the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name:

(a) There has been no evidence adduced to show that Respondent is using the disputed domain name in connection with a bona fide offering of goods or services. Respondent has not provided evidence of a legitimate use of the disputed domain name or reasons to justify the choice of the word “electrolux” in its business operation or the use of the ELECTROLUX trademark and design on its website (without disclaimer or other clarifying details). There has been no evidence to show that Complainant has licensed or otherwise
permitted Respondent to use the ELECTROLUX trademark or to apply for or use any domain name incorporating the ELECTROLUX trademark;

(b) There has been no evidence adduced to show that Respondent has been commonly known by the disputed domain name. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain name. Respondent registered the disputed domain name <tjelectrolux.cn> on March 24, 2017. The disputed domain name is identical or confusingly similar to Complainant’s ELECTROLUX trademark.

(c) There has been no evidence adduced to show that Respondent is making a legitimate noncommercial or fair use of the disputed domain name. By contrast, according to the information provided by Complainant, the disputed domain name <tjelectrolux.cn> is connected to the homepage of a repair centre called “Electrolux Refrigerator Repair Service Center”, which may appear to some Internet users as an official service centre endorsed or sponsored by Complainant (Annex 9 to the Complaint), when in fact the Respondent is not an authorized dealer of Electrolux-branded products or services.

The Panel finds that Respondent has failed to produce any evidence to establish its rights or legitimate interests in the disputed domain name in light of Complainant’s prima facie case. The Panel therefore holds that Complaint fulfills the second condition of Article 8 of CNDRP.

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”.

The Panel concludes that the third circumstances referred to in Article 9 of CDNRP is applicable to the present case and upon the evidence of these circumstances and other relevant circumstances, it is adequate to conclude that Respondent has registered and used the disputed domain name in bad faith.

a) Registered in Bad Faith

The Panel finds that Complainant has a widespread reputation in the ELECTROLUX trademark with regard to its products. Complainant has registered its ELECTROLUX trademark internationally, including registration in China (since 1997). Moreover, Respondent’s homepage (resolved by the disputed domain name) may appear to some Internet users as an official service centre endorsed or sponsored by Complainant (Annex 9 to the Complaint). Respondent would likely not have advertised itself on its homepage
as a repair center called “Electrolux Refrigerator Repair Service Center” if it was unaware of Complainant’s reputation.

In the other words, it is not conceivable to the Panel that Respondent would not have had actual notice of Complainant’s trademark right at the time of the registration of the disputed domain name. The Panel therefore finds that the ELECTROLUX trademark is not one that traders could legitimately adopt other than for the purpose of creating an impression of an association with Complainant. *(The Argento Wine Company Limited v. Argento Beijing Trading Company, supra).*

Moreover, Respondent has chosen not to formally respond to Complainant’s allegations. According to the panel’s decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company, supra,* “the failure of Respondent to respond to the Complaint further supports an inference of bad faith”. (See also *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc., WIPO Case No. D2002-0787*). Thus, the Panel concludes that the disputed domain name was registered in bad faith with the intent to create an impression of an association with Complainant’s Electrolux-branded products.

b) Used in Bad Faith

Given the widespread reputation of the ELECTROLUX trademark (as well as the content on the website mentioned above), the Panel finds that the public is likely to be confused into thinking that the disputed domain name has a connection with Complainant, contrary to the fact. There is a strong likelihood of confusion as to source, sponsorship, affiliation or endorsement of the website to which the disputed domain name is resolved (Annexes 9 to the Complaint). In other words, Respondent has through the use of a confusingly similar domain name and webpage contents created a likelihood of confusion with the ELECTROLUX trademark. Noting also that apparently no clarification as to Respondent’s relationship to Complainant is made on the homepage of the disputed domain name, potential Internet users are likely led to believe that the website at <tjelectrolux.cn> is either Complainant’s site or the site of official authorized agents of Complainant, which it is not. Moreover, Respondent has not responded formally to the Complaint. The Panel therefore concludes that the disputed domain name was used by Respondent in bad faith.

In summary, Respondent, by choosing to register and use a domain name which is confusingly similar to Complainant’s trademark, intended to ride on the goodwill of Complainant’s trademark, disrupt the Complainant’s normal business, and create confusion with the Complainant’s name or mark so as to mislead the public. In the absence of evidence to the contrary and rebuttal from Respondent, the choice of the disputed domain name and the conduct of Respondent as far as the website on to which the disputed domain name resolves is indicative of registration and use of the disputed domain name in bad faith.

The Panel therefore holds that the Complaint fulfils the third condition of Article 8 of CNDRP.
5. **Decision**

For all the foregoing reasons, 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 <tjelectroluxgd.cn> be transferred to Complainant.

Panelist: Yijun Tian
Date: January 15, 2019