ADMINISTRATIVE PANEL DECISION  
Case No. DCN-1900885

Complainant: AB Electrolux  
Respondent: 程飞  
Domain Name: electroluxgroup.cn  
Registrar: 阿里云计算有限公司

1. Procedural History

On 19 March 2019, the Complainant filed a Complaint in this matter with the Hong Kong International Arbitration Centre (HKIAC) pursuant to the CNNIC ccTLD Dispute Resolution Policy (the “Policy”) implemented by CNNIC on 21 November 2014. On the same day, the HKIAC confirmed receipt of the Complaint and requested the Complainant to submit the case filing fee.

On the same day, HKIAC notified 阿里云计算有限公司(“Registrar”) of the Disputed Domain Name of the proceedings by email. On 3 June 2019, Registrar acknowledged the email of HKIAC confirming that the Disputed Domain Name is registered with Registrar, that 程飞 is the holder of the Disputed Domain Name, that the CNNIC ccTLD Dispute Resolution Policy (“Policy”) is applicable to the Disputed Domain Name, the language of the Disputed Domain Name is Chinese as provided by the WHOIS information in relation to the Disputed Domain Name and confirmed that the Disputed Domain Name is under Registrar lock status.

On 6 June 2019, the HKIAC sent a Written Notice of Complaint (“Notification”), together with the Complaint, to the email address of Respondent’s nominated registrant contacts for the Disputed Domain Name (as recorded in the WHnOIS database). The Notification gave the respondents twenty (20) calendar days to file a Response (i.e. on or before 26 June 2019).

The Panel comprising of Dr. Shahla F. Ali as a single panelist was appointed by the HKIAC on 18 July 2019. The papers pertaining to the case were subsequently delivered to the Panel by email.

2. Factual background

According to the documents submitted by the Complainant, the Complainant is the owner of the registered trademark ELECTROLUX as a word and figure mark in several classes in more than 150 countries including in China, where the trademark was registered as early
as 1997. The trademarks have been registered in several classes, including class 7 that covering washing machines, spin dryers, mangles, food processors, and dust bags.

<table>
<thead>
<tr>
<th>Trademark</th>
<th>Date of Registration</th>
<th>Registration number</th>
<th>Type of registration</th>
</tr>
</thead>
<tbody>
<tr>
<td>ELECTROLUX</td>
<td>21.12.2010</td>
<td>836605</td>
<td>International (designated China)</td>
</tr>
<tr>
<td>ELECTROLUX</td>
<td>2014.01.07</td>
<td>11314983</td>
<td>China</td>
</tr>
<tr>
<td>ELECTROLUX</td>
<td>1999.07.01</td>
<td>976005</td>
<td>China</td>
</tr>
</tbody>
</table>

The Respondent, 程飞 of Jiangsu Province registered the disputed domain name on 16 December 2018. The Respondent did not file a Reply with the Centre.

3. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

i. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights:

The Complainant notes that AB Electrolux (Complainant), is a Swedish joint stock company founded in 1901 and a leading producer of appliances and equipment for kitchen and cleaning products and floor care products. Having started out with the sale of a single vacuum cleaner, after 90 years of innovations and acquisitions, Electrolux is now a global producer in home and professional appliances. The ELECTROLUX brand is the Complainant’s flagship brand for kitchen and cleaning appliances for both consumers and professional users. According to the information provided by the Complainant, in 2014, Electrolux had sales of SEK 112 billion and about 60,000 employees. The trademark registrations predate the registration of the Disputed Domain Name. Complainant has registered a number of domain names under generic Top-Level Domains ("gTLD") and country-code Top-Level Domains ("ccTLD") containing the term "electrolux", for example, <electrolux.com> (created on April 30, 1996) and a local Chinese website <electrolux.com.cn> (created on June 6, 1998). Complainant uses these domain names to connect to a website through which it
informs potential customers about its ELECTROLUX mark and its products and services.

The Disputed Domain Name directly incorporates Complainant’s well-known, registered trademark ELECTROLUX. The Complainant contends that the Disputed Domain Name is confusingly similar to the registered trademark ELECTROLUX. The Complainant makes reference to the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.7. “In addition, it is generally accepted that the addition of country code top-level suffix in the domain name (e.g., “.cn” and “.com.cn”) are to be disregarded under the confusing similarity test”. Also see HKIAC Case. No. DCN-1500631 Bayer AG v. HUO Gai Zhen where the Panel didn’t elaborate further on the actual .com.cn extension and regarded the disputed domain name to be identical to the Complainant’s mark. Based on the above, the Domain Name is regarded to be identical to Complainant’s registered trademark.

ii. The Respondent has no rights or legitimate interests in respect of the domain name:

The Complainant argues that it has not found that the Respondent is commonly known by the Domain Name. The WHOIS information is the only evidence in the WHOIS record which relates the Respondent to the Domain Name. It identifies the registrant as 程飞 which is not similar to the Domain Name. The Complainant further argues that the Respondent has not provided Complainant with any evidence of its use of, or demonstrable preparations to use the Domain Name in connection with a bona fide offering of goods or services consistent with having rights or legitimate interest in the name “electrolux”. Further Complainant notes that when entering the terms in Baidu search engine, all of the returned results point to Complainant’s official website and news articles about Complainant’s business activity all around the globe including the Chinese market.

There is no evidence that the Respondent has a history of using, or preparing to use, the Domain Name in connection with a bona fide offering of goods and services. It is clear that the Complainant has become a distinctive identifier associated with the term “electrolux” and that the intention of the Domain Name is to take advantage of an association with the business of the Complainant.

The website:

According to information produced by the Complainant, the Disputed Domain Name points to “for sale” website. As discussed above, the Respondent is not known by the Domain Name, nor does the Respondent claim to have made legitimate, non-commercial use of the Domain Names. The Complainant notes that the statute of limitations imposed by the China Internet Network
Information Centre favours the Respondent. The Domain Name was registered in 2017 and it can be assumed that the Respondent will continue to passively hold the domain names until 2019 when the Complainant will be barred from bringing a Complaint under the CNDRP. Once this deadline expires, the Respondent will be in a position to increase the sale’s price further to sell the domain name on the domain aftermarket, leaving Complainant with very little recourse other than to purchase the ransomed Domain Names or undergo the costly and lengthy formalities involved in initiating litigation in China.

All circumstances combined suggests that the Respondent has no legitimate interest in the Domain Names. The registrant’s name does not reflect or resemble the Domain Name strings. Searches undertaken does not show that the Respondent has any registered trademark rights or company registration in the name Electrolux.

iii. The disputed domain name has been registered and is being used in bad faith:

On the bad faith issue, the Complainant argues that since the registration of the Domain Name the Domain Name has not been connected to a genuine website. In the current case, Complainant suggests that it is clear that the Respondent has registered the Domain Name in bad faith by intentionally adopting Complainant’s widely known marks in violation of Complainant’s rights. Panels have found that the apparent lack of so-called active use (e.g., to resolve to a website) of the domain names without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith, but all circumstances of the case must be examined to determine whether the Respondent is acting in bad faith. In the current case, examples of what may be cumulative circumstances found to be indicative of bad faith include the Complainant having a well-known trademark that predates the registration of the Domain Name. Therefore, Complainant avers that regardless of the fact that the Domain Name is currently not in use, the circumstances surrounding this inaction is equivalent to passive holding constituting use of the domain name in bad faith (See; Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003).

Complainant tried to contact the Respondent on September 19, 2018 through a cease and desist letter. The letter was sent to the email address listed in the whois record. Complainant advised Respondent that the unauthorized use of its trademarks within the Domain Names violated their trademark rights and Complainant requested a voluntary transfer of the Domain Name. A reminder was sent on September 25, 2018. However, no reply was received. Respondent has simply disregarded such communication. Since the efforts of trying to solve the matter amicably were unsuccessful, Complainant chose to file a complaint according to the UDRP process. It has been mentioned in earlier cases that the failure of a respondent to respond to a cease and desist letter, or a similar attempt at contact, has been considered relevant in a finding of bad faith, e.g., News Group Newspapers Limited and News Network Limited v. Momm Amed Ia, WIPO Case No. D2000-1623; Nike, Inc. v. Azumano Travel, WIPO Case No.
In sum, the Complainant argues that the confusingly similar nature of the Domain Name to the Complainant’s trademark, the purpose of preventing the Complainant from reflecting the mark in corresponding Domain Names under the ccTLD .cn further demonstrates lack of good faith. In addition, Respondent has had ample time to activate the Domain Name to demonstrate that the use would not constitute bad faith use. Such has not occurred. Finally, Complainant’s international and Chinese trademark registrations predates Respondent’s Domain Name registrations and it is highly unlikely that the Respondent was not aware of the rights Complainant has in the trademarks and the value of said trademarks, at the point of the registrations.

B. Respondent

The Respondent’s contentions may be summarized as follows:

The Respondent did not submit a reply.

4. 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:-

Preliminary Issue: Language of Proceedings

Prior to the Panels consideration of the application of Article 8 of the CNDRP Policy to the facts in this case, one preliminary issue must be addressed: the language of the proceedings.

With regard to the language of the proceedings, according to Article 6 of the CNNIC ccTLD Dispute Resolution Policy (“Policy”), the language of the domain name dispute resolution
proceedings shall be Chinese, unless otherwise agreed by the parties or determined by the Panel.

While the Panel observes that the language of the registration agreements of Respondent is Chinese, in accordance with the Rules of CNNIC ccTLD, the Panel has the authority to determine the language of the proceedings, having regard to the circumstances. Having reviewed the Complainant's submission, including consideration of the costs of translation and given that the language of the disputed domain name is English, and that the Respondent has not issued any objection, for reasons of efficiency the Panel has thus determined that the language of the proceedings is English.

**Identical or Confusing Similarity**

The Complainant has established its right to the “Electrolux” trademark by submitting trademark registration certificates and records in a number of jurisdictions including in Mainland China. It has further shown that it has been trading under the name “Electrolux” for over 100 years in Sweden and overseas.

The disputed domain name <electroluxgroup.cn> contain two elements: "electroluxgroup" and “cn". Numerous CNNIC precedents have established that the country code top-level suffix (\.cn) does not have trademark significance, conferring no distinctiveness to the domain name sufficient to avoid user confusion and is merely descriptive. The addition of this term does nothing to minimise the risk of confusion. There is a long line of authorities which make it clear that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. In this case “group” is a generic descriptive term. The Disputed Domain Name directly incorporates Complainant’s well-known, registered trademark ELECTROLUX and is confusingly similar to the registered trademark ELECTROLUX. See: Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.7. “In addition, it is generally accepted that the addition of country code top-level suffix in the domain name (e.g., “.cn” and “.com.cn”) are to be disregarded under the confusing similarity test”. Also see HKIAC Case. No. DCN-1500631 Bayer AG v. HUO Gai Zhen where the Panel didn’t elaborate further on the actual.com.cn extension and regarded the disputed domain name to be identical to the Complainant’s mark.

In conclusion, the Panel finds that the Complainant has satisfied Article 8(i).

**Rights or Legitimate Interests of the Respondent**

Based on documentary evidence tendered in the Complaint, the Panel finds that the Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name.

If the Respondent fails to rebut this prima facie case established against the Respondent, the Complainant is deemed to have satisfied the second condition of Article 8 of CNDRP.
The Panel finds that it is established in the Complainant that (a) the Respondent has no relationship with the Complainant’s business and has not been authorized or licensed to use any of the Complainant’s trade name “Electrolux”; and (b) the Respondent is not known by the Disputed Domain Name. The Panel finds that the Respondent has not put the Disputed Domain Name into any bona fide use, but the Disputed Domain Name resolves to an inactive site.

In the circumstances, the Panel finds that the Respondent has no right or legitimate interest in respect of the Disputed Domain Name; and accordingly, the second condition of Article 8 of CNDRP is met by the Complainant.

**Bad Faith**

Article 9 of CNDRP provides that any of the following circumstances may serve as evidence of the registration and use of a domain name in bad faith:

(a) The purpose for registering or acquiring the domain name is to sell, rent or otherwise transfer the domain name registration to the complainant who is the owner of the name or mark or to a competitor of that complainant, and to obtain unjustified benefits;

(b) The disputed domain name holder, on many occasions, registers domain names in order to prevent owners of the names or marks from reflecting the names or the marks in corresponding domain names;

(c) 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; and

(d) Other circumstances which may prove the bad faith.

As discussed above, there is clear evidence adduced by the Complainant that the Disputed Domain Name redirects to an inactive website. Panels have found that the apparent lack of so-called active use (e.g., resolving to a website) without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith, but all circumstances of the case must be examined to determine whether the Respondent is acting in bad faith. (See; Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003). In the current case, the Complainant was in possession of a well-known trademark predating the registration of the Disputed Domain Name.

The Panel accepts the Complainant’s submission that it is obvious from the inactive site to which the Dispute Domain Name resolves and lack of engagement in attempts at negotiation that the Respondent has registered the Disputed Domain Name with the aim of disrupting the Complainant's normal business or creating confusion with the Complainant’s name or mark so as to mislead the public. By the reasons aforesaid, the Panel finds that the circumstances as particularized in Article 9 (c) of CNDRP exist in the
present case; and therefore finds that the Respondent has registered or has been using the Disputed Domain Name in bad faith; and accordingly, the third condition of Article 8 of CNDRP is met by the Complainant.

5. **Decision**

For all the foregoing reasons, in accordance with Article 14 of CNDRP, the Panel orders that the Disputed Domain Name <elctroluxgroup.cn> be transferred to the Complainant.

Panelist: Dr. Shahla Ali

Date: 22 July 2019