

**Nominet UK Dispute Resolution Service**

**DRS 08537**

**AB Electrolux**

and

**The Repaircentre**

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**Decision of Independent Expert**

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**1 Parties**

Complainant: AB Electrolux

Address: St Goransgatan 143  
Stockholm

Postcode: 10545

Country: Sweden

Respondent: The Repaircentre

Address: 40 Abbey Road  
Stirling

Postcode: FK8 1LJ

Country: United Kingdom

**2 Domain Name**

<electroluxcleaners.co.uk>

### **3 Procedural History**

- 3.1 On 21 April 2010 the complaint was received by Nominet, which checked that it complied with the Nominet UK DRS Policy (“the Policy”) and DRS Procedure (“the Procedure”). Nominet notified the respondent on 22 April 2010. The respondent responded on 27 April 2010. The matter was not resolved in mediation. The complainant requested referral of the matter for expert decision under the Procedure, and on 15 June 2010 paid the applicable fee.
- 3.2 I was appointed as expert on 25 June 2010. I have made the necessary declaration of impartiality and independence.

### **4 Factual background**

- 4.1 The complainant is well known internationally as a producer of kitchen and cleaning appliances. Its products include fridges, dishwashers, washing machines, vacuum cleaners and cookers.
- 4.2 The respondent registered the domain name on 9 September 2009. The domain name currently connects to a parking page carrying sponsored advertising links, a number of which relate to vacuum cleaners.

### **5 Parties’ Contentions**

#### *Complainant*

- 5.1 The complainant says it is the owner of the well-known trademark ELECTROLUX, registered in more than 150 countries.
- 5.2 It argues that the domain name contains its trademark, and that the addition of a generic suffix such as “cleaners” does not prevent the domain name from being similar to the trademark. In fact this strengthens the likelihood of confusion with the complainant’s trademark since it brings in a reference to some of the complainant’s products.
- 5.3 It argues that the respondent probably had the complainant and its business in mind when registering the domain name, especially since the respondent is an Electrolux agent. The respondent has used the domain name in a way which has confused or is likely to confuse people or businesses into believing that the domain name is registered to, operated or authorized by, or otherwise connected with the complainant.

#### *Respondent*

- 5.4 The respondent disputes that the complainant has any rights in respect of the domain name. The respondent argues that the word “cleaner” can refer to something other than a vacuum cleaner.

## 6 Discussion and Findings

### *General*

6.1 Under paragraph 2(a) of the Policy a complainant must show on the balance of probabilities that:

- it has rights in respect of a name or mark which is identical or similar to the domain name, and that
- the domain name, in the hands of the respondent, is an abusive registration.

### *Rights*

6.2 Rights are defined in the Policy as rights enforceable by the complainant, whether under English law or otherwise.

6.3 The complainant has produced documentary evidence from the US Patent and Trademark Office of its United States trademark and from the Office for Harmonisation in the Internal Market of its European trademark. It is well known as selling products under the Electrolux brand and has registered many domain names based on that name, including electrolux.com, electrolux.net, electrolux.info and electrolux.org.

6.4 At the third level (i.e. disregarding “.co.uk”), the first and dominant element of the domain name is the word “electrolux”, which is the complainant’s trademark.

6.5 In my view, the inclusion at the end of the domain name of the word “cleaners” does not make it dissimilar to the complainant’s brand. The inclusion in the domain name of an apparent reference to the type of products sold by the complainant arguably reinforces the impression that the domain name is based on the word “electrolux” rather than simply happening to consist partly of the same sequence of letters.

6.6 In those circumstances I am satisfied that the complainant has rights in respect of a name which is similar to the domain name.

### *Abusive Registration*

6.7 Under paragraph 1 of the Policy, abusive registration means a domain name which either:

- was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the complainant’s rights; or
- has been used in a manner which took unfair advantage of or was unfairly detrimental to the complainant’s rights.

This definition obviously covers both the time of registration, and later use.

- 6.8 Under paragraph 3(a)(ii) of the Policy, circumstances indicating that the respondent is using the domain name in a way which has confused or is likely to confuse people into believing it is connected with the complainant may be evidence of abusive registration.
- 6.9 Given that the domain name is similar to the complainant's brand, and that the domain name contains an apparent reference to the type of product sold by the complainant, I am satisfied that initial interest confusion has been likely between the domain name and the complainant. Deriving pay per click income from a parking page that may attract visitors by such confusion is in my view unfair.
- 6.10 In my view therefore, there is a prima facie case that the domain name has been used in a manner which took unfair advantage of the complainant's rights.
- 6.11 It is of course for the complainant to make good its case. However, a prima facie case having been established, it seems to me that the respondent has no satisfactory answer.
- 6.12 The fact that, as the respondent argues, "cleaners" can refer to things other than electrical appliances does not mean there is no risk of confusion. It remains true that "cleaners" can refer to the type of products sold by the complainant, and in the context of the domain name, that is a more natural inference to make. In my view the inclusion of the word does not reduce the risk of confusion.
- 6.13 For the reasons I have given I am satisfied on the balance of probabilities that the domain name, in the hands of the respondent, is an abusive registration.

## **7 Decision**

- 7.1 I find that the complainant has rights in a name which is similar to the domain name; and that the domain name, in the hands of the respondent, is an abusive registration.
- 7.2 The complaint is upheld. I direct that the domain name be transferred to the complainant.

Carl Gardner

16 July 2010