



**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	<b>HK-18010191</b>
<b>Complainant:</b>	<b>AB ELECTROLUX</b>
<b>Respondent:</b>	<b>Tai Hu Xian Su Ning Da Zhong Jia Dian Wei Xiu Fu Wu Zhong Xin</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;0512electrolux.com&gt;</b>

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**1. The Parties and Contested Domain Name**

The Complainant is AB ELECTROLUX, of Sankt Göransgatan 143, 112 17 Stockholm, Sweden.

The Respondent is Tai Hu Xian Su Ning Da Zhong Jia Dian Wei Xiu Fu Wu Zhong Xin, of Tai Hu Xian Xin Cang Zhen Hua Yuan Cun, An Qing Shi, An Hui, 246000 China.

The domain name at issue is 0512electrolux.com, registered by Respondent with Alibaba Cloud Computing (Beijing) Co., Ltd., of HiChina Mansion, 27 Gulouwai Avenue Dongcheng District, Beijing, 100120 China.

**2. Procedural History**

The Complaint was filed with the Hong Kong office of the Asian Domain Name Dispute Resolution Centre (the “Centre”) on November 16, 2018. On November 16, 2018, the Centre transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 16, 2018, the Registrar transmitted by email to the Centre its verification response disclosing registrant and registrar information for the disputed domain name which differed from the named Respondent and Registrar information in the Complaint. The Centre sent an email communication to the Complainant on November 19, 2018 providing the registrant and registrar information disclosed by the Registrar, and inviting the Complainant to submit an amended Complaint. The Complainant filed an amended Complaint on November 19, 2018.

The Centre has verified that the Complaint satisfies the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), the Rules of Procedure under the Policy (the “Rules”) and the Centre’s Supplemental Rules.

In accordance with the Rules, the Centre formally notified the Respondent of the Complaint, and the proceeding commenced, on November 23, 2018.

In accordance with the Rules, the due date for the Response was December 13, 2018. The Respondent did not submit any response. Accordingly, the Centre notified the Respondent's default on December 14, 2018.

The Centre appointed Sebastian Hughes as the Panelist in this matter on December 17, 2018. The Panel finds that it was properly constituted and has acted impartially in reaching its conclusion.

### **3. Factual background**

#### **A. Complainant**

The Complainant is a Swedish joint stock company founded in 1901 and is one of the world's leading producers of appliances and equipment for kitchen and cleaning products and floor care products, under the trade mark ELECTROLUX (the "Trade Mark").

The Complainant is the owner of numerous registrations for the Trade Mark in jurisdictions worldwide, including International Registration No. 836605, with a registration date of December 21, 2010; and Chinese Registration No. 11314983, with a registration date of January 7, 2014.

#### **B. Respondent**

The Respondent is apparently an organization based in China.

#### **C. The Disputed Domain Name**

The disputed domain name was registered on June 1, 2017.

#### **D. The Website at the Disputed Domain Name**

The disputed domain name has been resolved to an English and Chinese language website which promotes the electrical compliances of a competitor of the Complainant, Samsung (the "Website").

### **4. Parties' Contentions**

#### **A. Complainant**

The Complainant contends that the disputed domain name is confusingly similar or identical to the Trade Mark, the Respondent has no rights or legitimate interests in respect of the disputed domain name, and the disputed domain name was registered and is being used in bad faith.

#### **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **5. Findings**

### **5.1 Language of the Proceeding**

The language of the registration agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11, in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement. However, paragraph 11(a) of the Rules allows the panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the parties and undue delay to the proceeding.

The Complainant has requested that the language of the proceeding be English, for several reasons, including the fact the Website is in English (as well as Chinese) language.

The Respondent has not filed any response and did not file any submissions regarding the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time and costs.

The Panel finds that the contents of the Website demonstrate that the Respondent is conversant in English.

The Panel is also mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner.

In all the circumstances, the Panel therefore finds it is not foreseeable that the Respondent would be unduly prejudiced, should the language of the proceeding be English.

Having considered all the matters above, the Panel therefore determines, under paragraph 11(a) of the Rules, that the language of this proceeding shall be English.

### **5.2 Substantive Elements of the Policy**

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a complainant to prevail:

- i. The respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. The respondent has no rights or legitimate interests in respect of the domain name; and
- iii. The respondent's domain name has been registered and is being used in bad faith.

### **A) Identical / Confusingly Similar**

The Panel finds that the Complainant has rights in the Trade Mark acquired through use and registration.

The disputed domain name incorporates the entirety of the Trade Mark, together with the apparently meaningless numerical prefix “0512”.

The Panel therefore finds that the disputed domain name is confusingly similar to the Trade Mark.

### **B) Rights and Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

(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 trade mark 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 trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Panel finds on the record that there is therefore a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that the Respondent has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection with a bona fide offering of goods or services. To the contrary, the disputed domain name has been used in respect of the Website, to promote the goods of a competitor of the Complainant.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name; and there has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to rebut the Complainant’s prima facie case that the Respondent lacks rights or legitimate interests in

the disputed domain name, and therefore finds that the requirements of paragraph 4(a)(ii) of the Policy are met.

### **C) Bad Faith**

In light of the Panel's findings under section B) above, and in light of the undisputed evidence of the Respondent's use of the Website in the manner described above, the Panel finds the requisite element of bad faith has been satisfied, under paragraph 4(b)(iv) of the Policy.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith.

## **6. 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 <0512electrolux.com> be transferred to the Complainant.



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Sebastian Hughes  
Sole Panelist

Dated: December 31, 2018