



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2101531
Complainant:	Shenzhen Relx Technology Co., Ltd
Respondent:	Man Wu
Disputed Domain Name(s):	<relxhongkong.net>

1. The Parties and Contested Domain Name

The Complainant is Shenzhen Relx Technology Co., Ltd, of Rm B-208, BLD A, 2F, Vanke Yunchang, Bodun Tech. Park, Chaguang Rd, Xili Subdistrict, Nanshan Dist., Shenzhen, Guangdong 518055, China.

The Respondent is Man Wu, of 1502 tsuen wan central, tsuen wan. hong kong.

The domain name at issue is relxhongkong.net, registered by Respondent with Automattic Inc., of 60, 29th Street #343, San Francisco CA 94110-4929, United States.

2. Procedural History

On 27 August 2021, the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the "Centre") received the Complaint filed by the Complainant in accordance with the Uniform Domain Name Dispute Resolution Policy (the "Policy") approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on 24 October 1999 and the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules").

On 6 September 2021, Automattic Inc. ("Registrar") confirmed with the Centre the registration details of the Disputed Domain Name.

On 7 September 2021, the Centre sent an email communication to the Complainant providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint by 12 September 2021. The Complainant submitted the amended Complaint to the Centre on 7 September 2021.

On 7 September 2021, the Centre sent the Notification of Commencement of Proceedings to the Respondent informing the Respondent that the proceedings official commenced and requested the Respondent to reply within 20 days (i.e. on or before 27 September 2021).

On 28 September 2021, the Centre confirmed receiving no response from the Respondent within the specified time period.

On 28 September 2021, the Centre appointed Mr Eugene Low as the sole panelist.

3. Language of the Proceedings

The Complainant annexed to its Complaint an English version of the Registration Agreement. However, the Registrar informed ADNDRC that the language of the Registration Agreement applicable to the Disputed Domain Name is Chinese.

By default, the language of these proceedings shall be the language of the applicable Registration Agreement, i.e. Chinese. However, the Complainant requested using English as the language of the proceedings based on the following reasons:

- a) The translation of the Complaint would unfairly disadvantage and burden the Complainant and delay the proceedings and adjudication of this matter;
- b) Such additional delay, considering the obviously abusive nature of the Disputed Domain Name and its website poses continuing risk to Complainant and unsuspecting consumers seeking Complainant or its products or services;
- c) The term RELX, which is the dominant composition of the Disputed Domain Name, does not carry any specific meaning in the Chinese language;
- d) The Disputed Domain Name's website includes English words and phrases, such as "Travel Lover", "RELXTRAVELLOVER", and "Golden Shield";
- e) Pursuant to Paragraph 11(a) of the Rules, the Panelist may determine the language of the proceedings having regard to all circumstances, and to help ensure fairness, and maintain an inexpensive and expeditious avenue for resolving domain disputes. Here, in light of the Respondent's use of the Disputed Domain Name and Respondent's decision to register a domain name that misappropriates the famous RELX trademark and brand, it would unduly burden Complainant to have to arrange and pay for translation where Respondent has demonstrated behaviour that disrupts Complainant's business and has already required Complainant to devote significant time and resources to addressing this instance of abuse.

Having considered the overall circumstances, the Panelist accepts the Complainant's request to use English as the language of the proceedings. In particular, the Panelist has taken into account that the term "RELX" has no particular fixed meaning in Chinese and that the use of certain English terms/marks on the Disputed Domain Name's website does suggest that the Respondent should be conversant in English. The Panelist has also considered that the Respondent was given a chance to respond to these proceedings (and the change of language request) but did not do so. With a view to conducting these proceedings in a cost-effective manner, the Panelist accepts that these proceedings shall be conducted in English.

4. Factual background

For the Complainant

The Complainant, Shenzhen Relx Technology Co., Ltd (Chinese name: 深圳雾芯科技有限公司), is a company registered under the laws of the People's Republic of China. The

Complainant is the owner of trademark registrations for its RELX brand across various jurisdictions. Its primary operations include the research, development, manufacturing and distribution of its RELX 悦刻 brand of e-vapor products.

For the Respondent

The Respondent is Man Wu.

5. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

Complainant is a leading e-vapor company based in Shenzhen, China. It is committed to building and strengthening its brand by promoting the prevention of underage use of its products through a number of key initiatives e.g. the technology-driven Sunflower System in collaboration with its network of distributors, retailers and partners. Complainant also actively supports a variety of social responsibility initiatives relating to anti-counterfeiting, environmental protection and charity. Complainant's RELX brand is well known among its users, distributors, retailers and industry peers for its association with social responsibility.

Complainant operates the website at its primary domain name <relxtech.com>.

Complainant is the owner of trademark registrations for its RELX brand across various jurisdictions, including at the Intellectual Property Department of the Government of Hong Kong Special Administrative Region ("HKIPD"), China's Trademark Office of National Intellectual Property Administration ("CNIPA"), the United States Patent & Trademark Office ("USPTO") and European Union's Intellectual Property Office ("EUIPO"). Complainant has spent a considerable amount of time and money protecting its intellectual property rights. These registrations are referred to hereafter as the "RELX trademark" or "Complainant's trademark." The trademark registrations relevant to this instant matter are:

TRADEMARK	JURISDICTION/ TM OFFICE	REGISTRATION NUMBER	REGISTRATION DATE	IC CLASS
RELX & Design	HK / HKIPD	304668076	2018-09-13	034
RELX & Design	CN / CNIPA	28527765	2018-12-07	034
RELX & Design	US / USPTO	5818187	2019-07-30	034
RELX & Design	EM / EUIPO	017652439	2018-05-18	034
悦刻	CN / CNIPA	28721698	2018-12-07	034

i) The disputed domain name(s) is/are identical or confusingly similar to a trademark or service mark in which the Complainant has rights:

It is standard practice when comparing a Disputed Domain Name to Complainant's trademark, to not take the extension into account.

The Second Level Domain of the Disputed Domain Name incorporates the textual element of Complainant's RELX trademark, resulting in a domain name that is

confusingly similar to Complainant's RELX trademark. Here, Complainant holds trademark registrations for a design logo prominently featuring the word RELX, making the Disputed Domain Name confusingly similar to the prominent textual element of Complainant's trademark.

In addition, Respondent added the geographically descriptive term "hong kong" to the end of Complainant's RELX trademark. The mere addition of this geographically descriptive term to Complainant's trademark does not negate the confusing similarity between the Disputed Domain Name and the Complainant's trademark under Policy ¶ 4(a)(i), and the Disputed Domain Name must be considered confusingly similar to Complainant's trademark. It is well established that the addition of geographical terms is not sufficient to overcome a finding of confusing similarity pursuant to Policy ¶ 4(a)(i).

Respondent's use of the Disputed Domain Name also contributes to the confusion. Respondent is using the Disputed Domain Name to resolve to a website that uses Complainant's logo and purports to offer RELX branded products provided by "RELXTRAVELLOVER". Although the content is usually disregarded under the first element of the UDRP, Panels have "taken note of the content of the website associated with a domain name to confirm confusing similarity where it appears prima facie that the respondent seeks to target a trademark through the disputed domain name" As a result, Respondent's use of the Disputed Domain Name to resolve to a website that passes off as Complainant or its affiliate is further evidence that the Disputed Domain Name is confusingly similar to Complainant's trademark.

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

The granting of registrations by HKIPD, CNIPA, USPTO and EUIPO to Complainant for the RELX trademark is prima facie evidence of the validity of the terms "relx" as a trademark. These registrations also prove Complainant's ownership of this trademark, and of Complainant's exclusive right to use the RELX trademark in commerce on or in connection with the goods and/or services registered.

Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not licensed, authorized, or permitted Respondent to use Complainant's trademark in any manner, including in domain names.

Respondent is not commonly known by the Disputed Domain Name, which evinces a lack of rights or legitimate interests.

In the instant case, the pertinent Whois information identifies the Registrant as "Man Wu", which does not resemble the Disputed Domain Name in any manner. Thus, where no evidence, including the Whois record for the Disputed Domain Name, suggests that Respondent is commonly known by the Disputed Domain Name, then Respondent cannot be regarded as having acquired rights to or legitimate interests in the Disputed Domain Name within the meaning of ¶ 4(c)(ii).

Additionally, at the time of filing the complaint, Respondent was using a privacy WHOIS service, which past panels have also found to equate to a lack of legitimate interest.

Respondent is not making a bona fide offering of goods or services or legitimate, noncommercial fair use of the Disputed Domain Name. Respondent uses the Disputed Domain Name in connection with a commercial website featuring Complainant's logo and attempting to offer unauthorized or potentially counterfeited products bearing Complainant's brand. Past Panels have concluded that a respondent's efforts to sell unauthorized or potentially counterfeit products under the guise of a complainant's brand, trademarks, and/or logos amounts to neither a bona fide offering of goods or services under Policy ¶ 4(c)(i), nor a Policy ¶ 4(c)(iii) legitimate noncommercial or fair use.

Even assuming that Respondent is using the Disputed Domain Name to offer Complainant's genuine products, Respondent's use of the Disputed Domain Name still does not qualify as a bona fide offering of goods or services as contemplated by Policy ¶ 4(c)(i). The Oki Data Test has been generally followed to determine whether a respondent's use of a disputed domain name in the resale of a complainant's products constitutes a bona fide offering of goods or services in accord with Policy ¶ 4(c)(i). See *Oki Data Americas, Inc. v. ASD, Inc.*, D2001-0903 (WIPO Nov. 6, 2001)

Here, Respondent is not an authorized reseller or distributor for Complainant and Respondent's use of the Disputed Domain Name fails to meet the third criterion of the Oki Data Test, which requires that the website accurately discloses the Respondent's relationship with the Complainant. The website found at the Disputed Domain Name has no visible disclaimer stating that the website is neither endorsed nor sponsored by the Complainant to explain the non-existing relationship with the trademark holder. Instead, Respondent claims that the products offered in the website are "provided by the agent RELXTRAVELLOVER in Hong Kong", (mis)representing itself as Complainant or its affiliate. Respondent's website is clearly commercial in nature and it is not making a legitimate noncommercial or fair use of the Disputed Domain Name.

Respondent registered the Disputed Domain Name on April 10, 2020, which is after Complainant's registrations of its RELX trademark with HKIPD, CNIPA, USPTO and EUIPO, and Complainant's first use in commerce of its trademark in July 2018. The Disputed Domain Name's registration date is also after the Complainant's registration of its <relxtech.com> domain name on November 27, 2017.

For the reasons set out above, the Complainant submits that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

iii) The disputed domain name(s) has/have been registered and is/are being used in bad faith:

The Complainant and its RELX trademark are known internationally, with trademark registrations across numerous countries. The Complainant has marketed and sold its goods and services using this trademark since 2018, which is before Respondent's registration of the Disputed Domain Name.

By registering a domain name that incorporates the term RELX with the addition of geographically descriptive term "hong kong", Respondent has created a domain

name that is confusingly similar to Complainant's trademark. As such, Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business. Further, Respondent's website offers sale of goods that are identical to Complainant's goods and bearing Complainant's brand, with Respondent alleging that these are provided by "RELXTRAVELLOVER". Thus, it is "not possible to conceive of a plausible situation in which the Respondent would have been unaware of" the Complainant's brands at the time the Disputed Domain Name was registered.

ICANN policy dictates that bad faith can be established by evidence that demonstrates that "by using the domain name, [Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [Respondent's] web site..., by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on [Respondent's] web site or location." Here, Respondent creates a likelihood of confusion with Complainant and its trademark by using Complainant's RELX logo, with Respondent then attempting to profit from such confusion by offering unauthorized or potentially counterfeit products bearing Complainant's brand. As such, Respondent is attempting to cause consumer confusion in a nefarious attempt to profit from such confusion. The impression given by the Disputed Domain Name and its website would cause consumers to believe the Respondent is somehow associated with Complainant when, in fact, it is not. Respondent's actions create a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Disputed Domain Name, and the Respondent is thus using the fame of the Complainant's trademark to improperly increase traffic to the website listed at the Disputed Domain Name for Respondent's own commercial gain. It is well-established that such conduct constitutes bad faith.

Moreover, Respondent's use of the Disputed Domain Name constitutes a disruption of Complainant's business and qualifies as bad faith registration and use under Policy ¶4(b)(iii) because Respondent's domain name is confusingly similar to Complainant's trademark and the website at the Disputed Domain Name is being used to offer Complainant's goods without Complainant's authorization or approval. Past Panels have confirmed that using a confusingly similar domain to mislead consumers and then offering a complainant's goods or services is evidence of bad faith registration and use.

Respondent, at the time of initial filing of the Complaint, had employed a privacy service to hide its identity, which past Panels have held serves as further evidence of bad faith registration and use.

Finally, on balance of the facts set forth above, it is more likely than not that the Respondent knew of and targeted Complainant's trademark, and Respondent should be found to have registered and used the Disputed Domain Name in bad faith

B. Respondent

The Respondent has not submitted any Response.

6. Findings

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

A) Identical / Confusingly Similar

Based on the Complainant's trademark registrations for its RELX & Design trademarks, and in addition to the Complainant's actual use of the "RELX" mark, the Panelist is satisfied that the Complainant has rights to the mark "RELX" for the purpose of Paragraph 4(a)(i) of the Policy.

The Disputed Domain Name consists of "RELX", "hongkong" and ".net". "RELX" is identical to the Complainant's mark. "hongkong" is a geographical name and here it does not help to differentiate the Disputed Domain Name. ".net" is a top level domain suffix and generally cannot help to differentiate a disputed domain name. The distinctive part of the Disputed Domain Name is therefore "RELX" which is identical to the Complainant's mark. Here, the Panelists considers that the inclusion of "hongkong" in the Disputed Domain Name may even add to the confusion by suggesting that the Disputed Domain Name or its associated website is or is connected to a Hong Kong based/related website run by the Complainant.

The Panelist considers that Element (1) is satisfied.

B) Rights and Legitimate Interests

It is well established that under this Element, the burden of proof shall be effectively shifted to the Respondent once the Complainant has made out a prima facie case.

The Panelist is satisfied that the Complainant has made out a prima facie case that it has ownership of the RELX trademarks and exclusive right to use the RELX trademarks on goods and services these registrations cover. The Complainant further confirmed that the Respondent is not sponsored by or affiliated with Complainant in any way nor licensed, authorized, or permitted to use the Complainant's trademarks in any manner, including in domain names.

In the absence of any Response from the Respondent, there is no evidence before the Panelist to conclude that the Respondent has any rights on legitimate interest in the Disputed Domain Name.

The Panelist considers that Element (2) is satisfied.

C) Bad Faith

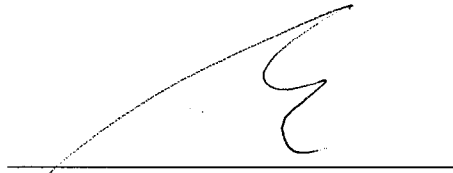
The Complainant has adduced evidence that the website associated with the Disputed Domain Name displays the Complainant's various trademarks (including "RELX" and "悦

刻”) and advertises products that are identical to Complainant’s goods. However, the Respondent is not an authorised reseller or distributor for the Complainant.

Looking at the evidence as a whole, and in the absence of any response put forward by the Respondent, the Panelist has reason to believe that the Respondent knew of and targeted the Complainant’s trademark, and have registered and used the Disputed Domain Name to pass off the Complainant and to mislead consumers and disrupt the Complainant’s business. Therefore, the Panel finds that Respondent has registered and is using the Disputed Domain Name in bad faith.

7. Decision

The Complainant has proved all three elements. In accordance with the Complainant’s request, the Panelist orders the Disputed Domain Name to be transferred to the Complainant.



Eugene Low
Panelist

Dated: 7 October 2021