Asian Domain Name Dispute Resolution Centre

ADNDRC hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	**HK-2101S76**
Complainant:	**Shenzhen Relx Technology Co., Ltd.**
Respondent:	**lulu wong**
Disputed Domain Name(s):	**< relx-mall.com >**

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 lulu wong, of Shanghai, China 200000.

The domain name at issue is relx-mall.com, registered by the Respondent with Shinjiru Technology Sdn Bhd, of 19-2 Wisma Laxton, Jalan Desa, Taman Desa, Off Jalan Klang Lama, Kuala Lumpur WP Kuala Lumpur 58100, Malaysia.

2. Procedurai History

The Complaint was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre ("the Centre") on 13 December 2021, elected the case to be handled by a sole panelist in according to the Uniform Policy for Domain Name Dispute Resolution ("UDRP") approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on 24 October 1999, the Rules for Uniform Domain Name Dispute Resolution Policy ("the Rules"), approved by ICANN Board of Directors on 28 September 2013 and the ADNDRC Supplemental Rules to the ICANN Uniform Domain Name Dispute Resolution Policy and the Rules for the Uniform Domain Name Dispute Resolution Policy ("the Supplemental Rules") effective from 31 July 2015.

On 14 December 2021, the Centre transmitted by email to the Registrar of the Disputed Domain Name to confirm and verify the registration information. On the same day, the Registrar replied and confirmed that UDRP applies to this case.

On 14 December 2021, the Centre sent the Complainant an acknowledgement email confirming receipt of the Complaint and a Deficiencies of the Complaint, asking the

Complainant to amend the Compiaint. The Complainant complied and replied on the same day.

The Centre formally notified the Respondent of the Complaint, and the proceedings commenced on 15 December 2021. The due date for filing a Response by the Respondent was 4 January 2022. However, the Respondent did not submit any response by this deadline date. Accordingly, the Centre notified both parties of the Respondent's default on 5 January 2022.

The Centre appointed Mr. Kwan Sit Kin as the soie panelist in this case on 10 January 2022.

3. Factual background

About the Complainant

Complainant Shenzhen Reix Technoiogy Co., Ltd (Chinese name: 深圳雾芯科技有限公司) is the owner of trademark registrations for its RELX brand across various jurisdictions. The 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	Reg. No	Registration Date	Class
RELX & Design	CN	28527765	2018-12-07	34
RELX & Design	US	5818187	2019-07-30	34
RELX & Design	EM	017652439	2018-05-18	34
悦刻	CN	28721698	2018-12-07	34

Complainant is a leading e-vapor company based in Shenzhen, China. Its primary operations include the research, development, manufacturing and distribution of its RELX 悦刻 brand of e-vapor products. Complainant sells its e-vapor products to adult smokers (of legal age of 18 years old and above) through an integrated offline distribution and "branded store plus" retail model which is tailored to China's consumer e-vapor market. Complainant also actively pursues valuable scientific research and development to further understand and minimize the health risks associated with e-vapor products.

Complainant (NYSE: RLX) is committed to buiiding and strengthening its trusted brand by consistently uploading and practicing ethical principles. This include 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>. According to Similarweb.com, Complainant's primary website <www.relxtech.com> is

ranked 16,670th most popular website in China. It received over 213,000 visitors between July 2020 and December 2020.

About the Respondent

The Respondent registered the Disputed Domain Name on 25 March 2021.

4. Parties' Contentions

A. Complainant

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

By virtue of its trademark registrations as shown in **Annex 1**, Complainant is the owner of the RELX trademark. *See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0") at 1.2.1* ("Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.").

It is standard practice when comparing a Disputed Domain Name to Complainant's trademark, to not take the extension into account. See *WIPO Jurisprudential Overview 3.0 at 1.11.1* ("The applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.").

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. See *WIPO Jurisprudential Overview 3.0 at 1.10* ("Panel assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element."). 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 generic term "mall" to the end of Complainant's RELX trademark. The mere addition of this generic 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 generic or descriptive terms is not sufficient to overcome a finding of confusing similarity pursuant to Policy ¶ 4(a)(i). See *WIPO Jurisprudential Overview 3.0 at 1.8* ("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."). See also *Shenzhen Relx Technology Co., Ltd v. poomipat thippanya/ shoesshop*, HK-2101529 (ADNDRC Oct. 4, 2021).

Respondent's addition of a hyphen does nothing to distinguish the Disputed Domain Name from Complainant's trademark. In other words, the use of such hyphen does not diminish the confusing similarity between the Disputed Domain Name and Complainant's trademark and should be disregarded for purposes of making this determination. See *Chernow Commc'ns, Inc. v. Kimball*, D2000-0119 (WIPO May 18, 2000) (Holding "that the use or absence of punctuation marks, such as hyphens, does not alter the fact that a name is identical to a mark").

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 be "RELX Co,. Ltd.", the RELX cartridge online store in Taiwan. See **Annex 3**. Such use suggests that Respondent intended the Disputed Domain Name to be confusingly similar to Complainant's trademark as a means of furthering consumer confusion. 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" See *WIPO Jurisprudential Overview 3.0 at 1.15*. 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 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 specified in **Annex 1**.

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. "In the absence of any license or permission from the Complainant to use its trademark, no actual or contemplated bona fide or legitimate use of the Disputed Domain Name could reasonably be claimed." See *Sportswear Company S.P.A. v. Tang Hong*, D2014-1875 (WIPO Dec. 10, 2014).

Respondent is not commonly known by the Disputed Domain Name, which evinces a lack of rights or legitimate interests. See *Policy, ¶ 4(c)(ii)*. See also *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, D2008-0642 (WIPO June 6, 2008) (finding that a respondent, or his/her organization or business, must have

been commonly known by the at-issue domain at the time of registration in order to have a legitimate interest in the domain).

In the instant case, the pertinent Whois information identifies the Registrant as "lulu wong", 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). See *Moncler S.p.A. v. Bestinfo,* D2004-1049 (WIPO, Feb. 8, 2005) (in which the panel noted "that the Respondent's name is "Bestinfo" and that it can therefore not be "commonly known by the Domain Name" [moncler.com]").

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. See *Jackson National Life Insurance Company v. Private Whols wwwjacksonnationallife.com N4892*, D2011-1855 (WIPO Dec. 23, 2011) ("The Panel concludes that the Respondent possesses no entitlement to use the name or the words in the Complainant's marks and infers [...] from the "Private Whois" registration that it is not known by such name. There is no evidence of the Respondent ever being commonly known by the name or words now included in the disputed domain name.").

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, claiming to be "RELX Co,. Ltd.", 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. See *Nokia Corp. v. Eagle*, FA 1125685 (NAF Feb. 7, 2008) (finding the respondent's use of the disputed domain name to pass itself off as the complainant in order to advertise and sell unauthorized products of the complainant was not a bona fide offering of goods or services pursuant to Policy ¶ 4(c)(i), or a legitimate noncommercial or fair use of the disputed domain name pursuant to Policy ¶ 4(c)(iii)). See also *The Lincoln Electric Company v. Privacy protection service - whoisproxy.ru*, FA 1651493 (NAF Jan. 13, 2016) (noting that, as Respondent used the disputed domain to promote Complainant's distributor without license to do so, Respondent did not demonstrate any bona fide offering of goods or services or any 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). See also *Inter-Tel, Inc. v. Marcus*, FA 727697 (NAF July 27, 2006) (respondent's use of the disputed domain name in the resale of complainant's products constitutes a bona fide offering of goods or services in accord with Policy ¶ 4(c)(i) where the respondent actually offered the goods or services at issue, the respondent used the site to sell only the trademarked goods, the site accurately disclosed the registrant's relationship with the trademark owner, and the respondent did not try to corner the market in all domain names, (which would have thus deprived the trademark owner of reflecting its own mark in a domain name).

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 Disputed Domain Name's website is an online store of RELX cartridges in Taiwan, (mis)representing itself as Complainant or its affiliate. This (mis)representation conveys the false impression that the Respondent was authorized to use Complainant's trademark and offer Complainant's products. See *LEGO Juris A/S v. John Davis*, D2018-0313 (WIPO Mar. 27, 2018) (noting the "Respondent cannot benefit from Oki Data since the Respondent has not accurately disclosed the lack of any relationship between it and the Complainant"). See also *Shenzhen Relx Technology Co., Ltd v. WhoisGuard Protected, WhoisGuard, Inc. / Xinke Liu*, D2021-0358 (WIPO Apr. 28, 2021). 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 March 25, 2021, which is after Complainant's registrations of its RELX trademark with 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) <u>The disputed domain name(s) has/have been registered and is/are being used in bad faith:</u>

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 a hyphen and the generic term "mall", 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 it is Complainant or its affiliate. 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. See *Telstra Corp. Ltd. v. Nuclear Marshmallows*, D2000-0003 (WIPO Feb. 18, 2000). Stated differently, RELX is so closely linked and associated with Complainant that Respondent's use of this mark, or any minor variation thereof strongly implies bad faith. Where a domain name is "so obviously connected with such a weii-known name and products, its very use by someone with no connection with the products suggests opportunistic bad faith." See *Parfums Christian Dior v. Javier Garcia Quintas*, D2000-0226 (WIPO May 17, 2000).

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." See *Policy, ¶ 4(b)(iv)*. Here, Respondent creates a likelihood of confusion with Complainant and its trademark by using Complainant's RELX logo and claiming to be "RELX Co,. Ltd.", 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. See *World Wrestling Fed'n Entm't, Inc. v. Ringside Collectibles*, D2000-1306 (WIPO Jan. 24, 2001) (conciuding that the respondent registered and used the <wwfauction.com> domain name in bad faith because the name resolved to a commercial website that the complainant's customers were likely to confuse with the source of the complainant's products, especially because of the respondent's prominent use of the complainant's logo on the site). See also *Hewlett-Packard Co. v. Ali*, FA 0353151 (NAF Dec. 13, 2004) ("Respondent [used "HP" in its domain name] to benefit from the goodwill associated with Complainant's HP marks and used the <hpdubai.com> domain name, in part, to provide products similar to those of Complainant. Respondent's practice of diversion, motivated by commercial gain, constitutes bad faith registration and use pursuant to Policy ¶ 4(b)(iv)"). See aiso

Shenzhen Relx Technology Co., Ltd v. Charles Lee, HK-2101530 (ADNDRC Oct. 4, 2021).

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 similiar 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. See *Andersen Corporation v. Design Price Buy Inc.*, FA 1261838 (NAF June 16, 2009) (Respondent's use of a domain name confusingiy similar to Complainant's mark, which resolves to a commercial website offering Complainant's products for sale, likely disrupts Complainant's business).

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. See also *Dr. Ing. H.C. F. Porsche AG v. Domains by Proxy, Inc.*, D2003-0230 (WIPO May 16, 2003). See also *WIPO Jurisprudential Overview 3.0 at 3.6* ("Panels have also viewed a respondent's use of a privacy or proxy service which is known to block or intentionally delay disclosure of the identity of the actual underlying registrant as an indication of bad faith.").

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 shouid be found to have registered and used the Disputed Domain Name in bad faith. *See Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, D2014-1754 (WIPO Jan 12, 2014) ("the Panel makes its finding regarding bad faith registration by asking whether it is more likely than not from the record of the evidence in the proceeding that Respondent had the ELECTRIC FOOTBALL trademark in mind when registering the Domain Name.").

B. Respondent

The Respondent did not file any Response within the stipulated time.

5. 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 simiiar 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.

Identical or Confusingly Similar to Complainant's Trademark

The Complainant is the registrant of the trademark "RELX".

The top-level domain .com should be disregarded when comparing the similarity and the second level domain of the Disputed Domain Name is "relx-mall". The hyphen merely separates "relx" which is identical to the Complainant's registered trademark "RELX" and "mall" does not diminish the similarity between the Disputed Domain Name and the Complainant's trademark. The addition of a generic term "mall" after the hyphen does not help to negate the similarity between the Disputed Domain Name and the Complainant's trademark. On the contrary, it misleads the potential consumers into thinking that the Disputed Domain Name resolves to a website that they may shop the RELX goods. In such case, the actual prominent part of the Disputed Domain Name is "relx" indeed.

Accordingly, the Panelist finds that the Disputed Domain Name is identical with or confusingly similar to the trademark "RELX" in which the Complainant has rights.

Rights or Legitimate Interests of the Respondent

The Complainant is the legitimate owner of the "RELX" trademark and asserts that it has not licensed, authorized or permitted the Respondent to use its mark in any means.

The Complainant also argued that the Respondent does not have any rights or legitimate interest in relation to "RELX" since the Respondent is neither commonly known by the Disputed Domain Name, nor making a bona fide offering of goods or services or legitimate, non-commercial fair use of the Disputed Domain Name.

Given that the Respondent did not provide any evidence to prove that she has any right or legitimate interest in the Disputed Domain Name, the Panelist believes that the Respondent has no rights or legitimate interests in relation to the Disputed Domain Name.

Bad Faith

From the way the Respondent uses the Disputed Domain Name, it shows that the Respondent should be aware of the Complainant and its trademark when the Respondent registered the Disputed Domain Name.

The Respondent has never been granted the Complainant's permission to use the "RELX" trademark. However, the Respondent places the Complainant's "RELX" logo trademark in a prominent position in the homepage of the website that the Disputed Domain Name resolves to. Moreover, the Respondent claims to be Relx Co,. Ltd and to sell genuine RELX goods. Consequently, the Respondent is using the Disputed Domain Name to intentionally attempt to attract, for commercial gain, internet users to the website, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of its website.

In view of the above, the Panelist concludes that the Disputed Domain Name has been registered and used in bad faith.

6. Decision

All the three conditions set forth in Paragraph 4(a) of UDRP have been satisfied, this Panel orders that the Disputed Domain Name be transferred to the Complainant.

Kwan Sit Kin

Kwan Sit Kin
Sole Panelist

Dated: 24 January 2022