

ADMINISTRATIVE PANEL DECISION

Shenzhen Relx Technology Co., Ltd v. Chun Hei Chan, and Privacy Department, IceNetworks Ltd.

Case No. D2023-0114

1. The Parties

The Complainant is Shenzhen Relx Technology Co., Ltd, China, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondents are Chun Hei Chan, Hong Kong, China, and Privacy Department, IceNetworks Ltd., Iceland.

2. The Domain Names and Registrars

The disputed domain name <forelxers.com> is registered with eNom, Inc. (the “First Registrar”), and the disputed domain names <now-relx.com> and <relxtw.com> are registered with Internet Domain Service BS Corp (the “Second Registrar”) (collectively, the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 10, 2023. On January 10, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On January 10, 2023, the First Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <forelxers.com> which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. On January 11, 2023, the Second Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names <now-relx.com> and <relxtw.com> which differed from the named Respondent (Domain Admin, Whois Privacy Corp.) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 12, 2023 providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on January 16, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondents of the Complaint, and the proceedings commenced on January 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 8, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on February 10, 2023.

The Center appointed John Swinson as the sole panelist in this matter on February 24, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

Because the websites at the disputed domain names are partially in Chinese, although the Complainant has provided translation of some of the webpages in English using machine translation, the Panel has also used the Google Translate service to understand the content of the websites. Where the Panel quotes the websites at the disputed domain names, some of the quotes may be translations provided by Google Translate.

4. Factual Background

The Complainant is a leading e-vapor company based in Shenzhen, China. The Complainant is listed on the New York Stock Exchange. Its operations include research, development, manufacturing, and distribution of its RELX 悦刻 brand of e-vapor products. The Complainant sells its e-vapor products to adult smokers (of legal age of 18 years old and older) through an integrated offline distribution and "branded store plus" retail model which is tailored to China's consumer e-vapor market.

The Complainant operates websites at the domain names <relxtech.com> and <relxnow.com>.

The Complainant owns trademark registrations for RELX in a stylized form, including (for example) Hong Kong, China Registration No. 304668076 that has an actual registration date of May 14, 2019, and United States of America Registration No. 5818187 that has a registration date of July 30, 2019.

The Respondents did not file a Response, so little is known of the Respondents.

The Respondent, Privacy Department, IceNetworks Ltd., is the registrant of the disputed domain names <now-relx.com> and <relxtw.com>. This Respondent has been an unsuccessful respondent in approximately 15 prior decisions under the Policy.

The Respondent, Chun Hei Chan, is the registrant of the disputed domain name <forelxers.com>.

The disputed domain names were registered on March 27, 2020 (<forelxers.com>), on April 19, 2021 (<now-relx.com>), and on March 8, 2022 (<relxtw.com>).

The disputed domain names <now-relx.com> and <relxtw.com> appear to resolve to identical websites that use the Complainant's trademark in the Complainant's logo format and that promote or sell what appears to be the Complainant's products claiming to be the "官方线上零售" (official online retail) of the Complainant's products on the bottom of each page. The disputed domain name <forelxers.com> resolves to a website that provides information about the Complainant and its products, that uses the phrase "我們是 悦刻" (We are RELX), and that includes a link to a Facebook page that uses the Complainant's trademark in the Complainant's logo format. The website also states that it is a newly established website for users of the RELX products and points out that the RELX's official websites are at the domain names <relxtech.com> and <relxnow.com>.

According to the Complainant, the products offered at the websites connected to the disputed domain names are not directly sold from the websites, but rather the websites offer pickup from local stores or home drop-off of the RELX products.

5. Parties' Contentions

A. Complainant

In summary, the Complainant makes the following submissions:

The Complainant owns registered trademarks for RELX. The disputed domain names include additional terms that closely relate to and describe the Complainant's business. For example, "tw" refers to Taiwan Province of China where the Complainant carries on business, and "now" is connected with the Complainant's website at "www.relxnow.com". The disputed domain name <forelxers.com> could be read as meaning "For RELX users".

The Respondents use the disputed domain names for websites that pass themselves off as that of the Complainant, which confirms that the disputed domain names are confusingly similar to the Complainant's trademark.

The Respondents are not sponsored by or affiliated with the Complainant. The Respondents are not commonly known by the disputed domain names. The Complainant has not licensed, authorized, or permitted the Respondents to register the disputed domain names or to use the Complainant's trademark. The Respondents use a privacy service, which equates to a lack of right or legitimate interest.

In creating the impression that the Respondents' websites are authorized and administered by the Complainant, the Respondents' purpose is to fool unsuspecting visitors into divulging their personal information. The websites at which the disputed domain names resolve seek to take advantage of the fame of the Complainant's trademarks, and the trust and goodwill that the Complainant has fostered among consumers to, at minimum, illegitimately increase traffic to the Respondents' websites for personal gain, and at worst, to collect personal information from the Complainant's customers.

This use of the disputed domain names, presumably for commercial gain, and with devious, nefarious motives, clearly fails to constitute a *bona fide* offering of goods or services pursuant to the Policy.

In the present case, the Respondents have failed to disclose the registrant's relationship with the trademark holder and are not directly selling the goods at issue. Thus, the "Ok! Data test" is not met by the Respondents.

The Respondents have demonstrated a knowledge of and familiarity with the Complainant's brand and business. The Respondents are using the fame of the Complainant's trademarks to improperly increase traffic to the websites at the disputed domain names for the Respondents' own commercial gain. It is well established that such conduct constitutes bad faith.

Where the disputed domain names use the Complainant's logo to direct visitors to Instagram and Facebook accounts which impersonate the Complainant, and sell the Complainant's products, there is no plausible good-faith reason or logic for the Respondents to have registered the disputed domain names. The only feasible explanation for the Respondents' registration of the disputed domain names is that the Respondents intend to cause confusion, mistake, and deception by means of the disputed domain names. Accordingly, any use of the disputed domain names could only be in bad faith.

B. Respondents

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

6. Discussion and Findings

To succeed, in respect of a disputed domain name, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondents have no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The onus of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

A. Procedural Issue – Multiple Domain Names and Multiple Respondents

The Complaint names two Respondents and relates to three disputed domain names.

The Complainant requests consolidation of the proceedings on the grounds that (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all Parties.

Paragraph 3(c) of the Rules states that “the complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder”.

Additionally, paragraph 10(e) of the Rules grants a panel the power to consolidate multiple domain name disputes where it would be equitable and procedurally efficient to permit the consolidation.

The Complainant provides the following reasons for consolidation:

First, the website at “www.forelxers.com” references the disputed domain name <relxtw.com>.

Second, the website at “www.relxtw.com” references the disputed domain name <now-relx.com>, for example, in the copyright notice.

Third, the registrants of all disputed domain names use a privacy service. The Panel notes however that the disputed domain name <forelxers.com> does not appear to have been registered using a privacy service. The registrant information is shown in the publicly available Whois database as Redacted for Privacy due to data protection.

Fourth, the websites at all three disputed domain names have content in Chinese.

The Panel has reviewed the three relevant websites. The Panel notes that the disputed domain names <relxtw.com> and <now-relx.com> appear to resolve to identical websites, and the <relxtw.com> website displays “Copyrights ©2022 NOW-RELX.COM”. The website at “www.forelxers.com” is different in style and content to the other two websites, and looks more like a blog or user group website. In one article, about “RELX General Agent Association”, the website at “www.forelxers.com” refers to the website at the disputed domain name <relxtw.com> as the website of “the only general agent in Taiwan [Province of China]”. It is not entirely clear, but it is possible that the disputed domain name <forelxers.com> is under common control with the other two disputed domain names.

In the circumstances, and taking account of the fact that none of the named Respondents has challenged the Complainant's submissions or request for consolidation, the Panel finds that (i) the disputed domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. *Insured Aircraft Title Service, LLC v. Privacy service provided by Withheld for Privacy ehf / Noah Josh, Sergio Manny, Karl Anderson, Eve Manesh, Regina Hank, Knight Carl*, WIPO Case No. [D2022-2011](#).

The proceedings will therefore be consolidated in respect of all three of the disputed domain names.

In the decision below, unless stated otherwise, the Panel will use the term "Respondent" to refer to both named Respondents.

B. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant owns trademark registrations for RELX.

Previous UDRP panels have consistently held that the domain names are identical or confusingly similar to a trademark for purposes of the Policy when the domain names include the trademark, or a confusingly similar approximation. See, for example, *Consumer Reports, Inc. v. Wu Yan, Common Results, Inc.*, WIPO Case No. [D2017-0371](#); and *Captain Fin Co. LLC v. Private Registration, NameBrightPrivacy.com / Adam Grunweg*, WIPO Case No. [D2021-3279](#).

All of the disputed domain names include RELX as part of the disputed domain names. The additional terms or letters in the disputed domain names, such as "now", "tw", "fo" or "ers" do not prevent the Complainant's trademarks from being recognizable within the disputed domain names.

The Panel concludes that the disputed domain names are confusingly similar to the Complainant's trademarks.

The Complainant succeeds on the first element of the Policy.

C. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain names.

The Complainant's allegations to support the Respondent's lack of rights or legitimate interests in the disputed domain names are outlined above in section 5A.

The Complainant has rights in its trademark which precedes the Respondent's registration of the disputed domain names. There is no evidence that the Respondent is commonly known by any of the disputed domain names.

Additionally, the Complainant asserts that the "Oki Data test" does not apply in the present case because the Respondent has failed to disclose the Respondent's relationship with the Complainant (as a reseller) and the Respondent is not actually selling the Complainant's goods but is offering a pickup and delivery service for the Complainant's goods. This argument appears to only apply to the websites at "www.now-relx.com" and "www.relxtw.com". These two websites include the Complainant's trademark in the same logo format as registered by the Complainant and do not appear to inform users of the relationship between the Respondent and the Complainant. Rather, the websites claim to be the "官方線上零售" (official online retail) of the Complainant's products on the bottom of each page. The Panel considers that the websites at the disputed domain names <now-relx.com> and <relxtw.com> could easily mislead consumers into

believing that these websites are official websites of the Complainant. Accordingly, the Panel finds that the “Oki Data test” is not met in the present case in respect of <now-relx.com> and <relxtw.com>. See, for example, *Columbia Sportswear Company v. Name Redacted*, WIPO Case No. [D2022-3359](#).

The website at “www.forelxers.com” is a website that appears to be directed at users, and possibly retailers and distributors, of the Complainant’s products. The website provides news or blog-like articles about the Complainant and its products, including stories about the Complainant’s employees and the Complainant’s patents. The website uses its own distinct branding ^{for RELXERS}, and does not offer products for sale and does not appear to have advertising. The website also provides a login portal for its members. It appears to be an informational website rather than the website that sells products. On the home page, this website refers to the Complainant’s two websites at the domain names <relxtech.com> and <relxnow.com> as being “official” websites of the Complainant, and refers to itself (*i.e.*, to the website at the disputed domain name <forelxers.com>) as being an “unofficial” website. However, at the bottom of at least one webpage, the website states “我們是 悅刻” (We are RELX) and refers to the Complainant’s mission statement. The Panel finds that the Complainant has made a *prima facie* showing that the website at the disputed domain name <forelxers.com> potentially misleads Internet users into believing that this website is operated or sponsored by the Complainant and thus is not legitimate.

Accordingly, the Panel finds that the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in the disputed domain names. The burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain names.

The Panel finds that the Respondent has failed to produce any evidence to establish its rights or legitimate interests in the disputed domain names. Accordingly, there being no other evidence, the Panel finds that the Respondent has no rights or any legitimate interests in the disputed domain names.

The Complainant succeeds on the second element of the Policy in relation to the disputed domain names.

D. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain names in bad faith.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by the complainant. *Fifth Street Capital LLC v. Fluder (aka Pierre Olivier Fluder)*, WIPO Case No. [D2014-1747](#).

In the present case, it is clear that the Respondent is aware of the Complainant and its RELX trademark. Two of the websites at the disputed domain names use the Complainant’s RELX trademark in the same logo format as used by the Complainant. Moreover, the disputed domain name <now-relx.com> is similar to the Complainant’s widely used domain name <relxnow.com>.

The website at the disputed domain name <forelxers.com> includes a reference to a Facebook page associated with another domain name which is used for an email address under the Contact Us on the website. This Facebook page includes both the Complainant’s logo and the logo used on the website at the disputed domain name <forelxers.com>, and displays advertisements for purchasing the Complainant’s products.

The Panel also refers to the discussion above in section 6.C regarding the misleading nature of the websites at the disputed domain names.

The Panel finds that the Respondent more likely than not registered the disputed domain names to take an unfair advantage of the similarity between the disputed domain names and the Complainant's RELX trademark.

The Panel also finds in the circumstances that, by using the disputed domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's websites or other on-line location by creating a likelihood of confusion with the Complainant's RELX trademark as to the source, sponsorship, affiliation, or endorsement of its websites or of products services on its websites or other on-line location (paragraph 4(b)(iv) of the Policy).

Therefore, the Respondent has registered and used the disputed domain names in bad faith.

7. 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 names <forelxers.com>, <now-relx.com>, and <relxtw.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: March 9, 2023