



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2301813
Complainant:	Shenzhen Relx Technology Co., Ltd
Respondent:	Privacy Department, IceNetworks Ltd.
Disputed Domain Name:	<relx-pods.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 Privacy Department, IceNetworks Ltd., of Klapparstigur 7, 101, Reykjavik, IS.

The domain name at issue is <relx-pods.com>, registered by Respondent with Internet Domain Service BS Corp, of Ocean Centre, Montagu Foreshore, East Bay Street, Nassau, The Bahamas, P.O. BOX SS-19084.

2. Procedural History

The Complaint was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the "Centre") on September 27, 2023. On September 28, 2023, the Centre confirmed receipt of the Complaint and transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 28, 2023, the Registrar transmitted by email to the Centre its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

The Centre provided the Complainant with the Respondent's details on October 10, 2023. The Complainant submitted an Amended Complaint on October 13, 2023.

On October 16, 2023, the Centre verified that the Complaint was in administrative compliance with the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP") and the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") and formally notified the Respondent of the Complaint, and the proceedings commenced in accordance with the Rules, paragraphs 2 and 4. In accordance with the Rules, paragraph 5, the due date for Response was

November 6, 2023. The Respondent did not submit any response. Accordingly, the Centre notified the Respondent's default on November 7, 2023.

The Centre appointed Wilson Pinheiro Jabur as the sole panelist in this matter on November 7, 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 Centre to ensure compliance with the Rules, paragraph 7.

3. Factual background

The Complainant is an 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.

The Complainant official websites are available at <relxtech.com> and <relxnow.com>. According to Similarweb.com, the Complainant's primary website available at <www.relxtech.com> was ranked as the 9,849th most popular website in China, having received over 87,400 visitors in October 2022.

The Complainant is the owner of the following, amongst other, trademark registrations throughout the world:

- European Union trademark registration No. 017652439 for RELX and device, registered on May 18, 2018 in class 34;
- Hong Kong trademark registration No. 304668076 for RELX and device, registered on September 13, 2018 in class 34;
- United States of America trademark registration No. 5818187 for RELX and device, registered on July 30, 2019 in class 34; and
- Taiwan trademark registration No. 01982096 for RELX and device, registered on April 16, 2019, in class 34.

The disputed domain name was registered on April 19, 2021 and was used in connection with a website reproducing the Complainant's logo, purportedly offering the Complainant's products. Presently, no active webpage resolves from the disputed domain name.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The 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.
- ii. The disputed domain name is confusingly similar to the Complainant's trademark given its entire reproduction with the addition of a hyphen and the

- descriptive term “pods” which is closely linked and associated with the Complainant’s trademark and only increases likelihood of confusion.
- iii. The term “pods” is commonly used to refer to small vaping devices with interchangeable cartridges which users can change to suit their choice of e-liquids, being the Complainant the provider of a range of different pods.
 - iv. As to the Respondent’s lack of rights or legitimate interests, the Complainant contends that:
 - a. the Respondent is not sponsored by or affiliated with the Complainant in any way, not having the Complainant given the Respondent permission to use the Complainant’s trademarks in any manner, including in domain names;
 - b. the Respondent is not commonly known by the disputed domain name;
 - c. the Respondent is not making a *bona fide* offering of goods or services or legitimate, noncommercial fair use of the disputed domain name; rather having used the disputed domain name in an attempt to impersonate the Complainant, reproducing the Complainant’s logo on the webpage that used to be available at the disputed domain name where purportedly the Complainant’s products were being offered;
 - d. with no visible nor prominent disclaimer explaining the lack of a relationship with the Complainant (Annex 3.1 to the Complaint) and
 - e. being the Complainant unable to ascertain the authenticity of the goods, what does not comply with the “Oki Data test”; and
 - f. lastly, the current inactive use of the disputed domain name further evinces a lack of rights or legitimate interests.
 - v. As to the registration and use of the disputed domain name in bad faith, the Complainant asserts that the Respondent’s knowledge of the Complainant’s well-known trademark is evident given the reproduction of its logo as well as of images of the Complainant’s products in the website that used to be available at the disputed domain name, having, thus, the Respondent attempted to profit from the confusion created by offering unauthorized or potentially counterfeit products bearing the Complainant’s trademark (Shenzhen Relx Technology Co., Ltd v. Charles Lee, HK-2101530 (ADNDRC Oct. 4, 2021), what further constitutes a disruption of the Complainant’s business and qualifies as bad faith registration and use under the Policy ¶4(b)(iii).
 - vi. Furthermore, the present passive holding of the disputed domain name further corroborates a finding of bad faith registration and use pursuant to Policy ¶ 4(a)(iii) (See *Telstra Corp. v. Nuclear Marshmallows*, D2000-0003 (WIPO Feb. 18, 2000) and the Respondent has engaged in a pattern of cybersquatting, by registering domain names that refer to third parties well-known trademarks, what lead Respondent to have been found to have registered and used domain names, including the Complainant’s RELX trademark, in bad faith in the following cases:
 - Shenzhen Relx Technology Co., Ltd v. Chun v. Hei Chan Privacy Department, IceNetworks Ltd., WIPO Case No. D2023-0114;
 - Ferring B.V. v. Privacy Department, IceNetworks Ltd., WIPO Case No. D2022-4413;
 - Yelp Inc. v. Privacy Department / IceNetworks Ltd., FORUM Case No. FA 2005198;
 - Banque et Caisse d’Épargne de l’État, Luxembourg v. Privacy Department, IceNetworks Ltd., D2022-1754 (WIPO, Jun. 24, 2022); and
 - State Farm Mutual Automobile Insurance Company v. Privacy Department / IceNetworks Ltd., FA 1984549 (FORUM, Mar. 22, 2022).

B. Respondent

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

5. Findings

Paragraph 4(a) of the ICANN Uniform Domain Name Dispute Resolution Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

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

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

A) Identical / Confusingly Similar

The Complainant has established rights over the RELX trademark, registered in various jurisdictions.

The disputed domain name reproduces in its entirety the Complainant's RELX trademark and is therefore confusingly similar under the Policy which, as recognized by past UDRP panels, involves a "side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name" (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.7).

While the addition of a hyphen and the generic term "pods" may bear assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy (WIPO Overview 3.0, section 1.8).

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

B) Rights and Legitimate Interests

Paragraph 4(c) of the Policy provides a nonexclusive list of circumstances that may indicate the Respondent's rights or legitimate interests in the disputed domain name. These circumstances are:

- i. before any notice 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, in spite of not having acquired trademark 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 trademark or service mark at issue.

The Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name. This entitles the Panel to draw any inferences from such default, as it considers appropriate, pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make at least a *prima facie* case against the Respondent under the second UDRP element.

In that sense, and according to the evidence submitted, the Complainant has made a *prima facie* case against the Respondent whom is not sponsored by or affiliated with the Complainant in any way, not having the Complainant given the Respondent permission to use the Complainant's trademarks in any manner, including in domain names.

Also, the lack of evidence as to any trademarks registered by the Respondent corresponding to the disputed domain name, corroborates the indication of an absence of rights or legitimate interests in the disputed domain name.

Moreover, according to the evidence submitted by the Complainant, the use made of the disputed domain name in connection with an active webpage reproducing the Complainant's trademark and logo, purportedly offering the Complainant's products with no disclaimer was provided as to the lack of affiliation between the Respondent's website and the Complainant, clearly does not constitute a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name in these circumstances.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

C) Bad Faith

The Policy indicates in paragraph 4(b)(iv) that bad faith registration and use can be found in respect of a disputed domain name, where a respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other on-line location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In this case, both the registration and use of the disputed domain name in bad faith can be found pursuant to Policy, paragraph 4(b)(iv), in view of the reproduction of the Complainant's trademark and logo as well as offer of the Complainant's products at the webpage available that used to be available at the disputed domain name, which creates a likelihood of confusion with the Complainant's trademark and take unfair advantage of the Complainant's trademark for commercial gain.

Moreover, in these circumstances, bad faith of the Respondent is also supported here by:

- i. the choice to retain a privacy protection service in an attempt to conceal the Respondent's true identity;
- ii. the lack of reply by the Respondent invoking any rights or legitimate interests;
- iii. the fact that Respondent appears to have engaged in a pattern of bad faith conducted, registering dozens of third parties well-known trademarks, as recognized by previous UDRP Panels.

For the reasons above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith pursuant to paragraph 4(b)(iv) of the Policy. The third element of the Policy has therefore been met.

6. Decision

The Panel finds that the Complainant has satisfied all three elements of UDRP paragraph 4(a). Accordingly, the Panel orders that the disputed domain name <relx-pods.com> be transferred to the Complainant.



Wilson Pinheiro Jabur
Panelist

Dated: November 13, 2023