



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2101529
Complainant:	Shenzhen Relx Technology Co., Ltd
Respondent:	poomipat thippanya / shoesshop
Disputed Domain Name(s):	<relxwholesale.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 poomipat thippanya / shoesshop, of 81/189, Bangkok NA 12120, Thailand.

The domain name at issue is relxwholesale.com, registered by Respondent with Namecheap, Inc., of 4600 East Washington Street, Suite 305, Phoenix AZ 85034, 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 30 August 2021, Namecheap Inc. ("Registrar") confirmed with the Centre the registration details of the Disputed Domain Name.

On 31 August 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 5 September 2021. The Complainant submitted the amended Complaint to the Centre on 1 September 2021.

On 1 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 21 September 2021).

On 23 September 2021, the Centre confirmed receiving no response from the Respondent within the specified time period.

On 23 September 2021, the Centre appointed Mr Eugene Low as the sole panelist.

3. 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 poomipat thippanya / shoeshop with a contact email address poomthippanya@gmail.com.

4. 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 Thailand's Department of Intellectual Property ("TH-DIP"), 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	CLASS
RELX & Design	TH / TH-DIP	1954762	2020-11-10	34
RELX & Design	CN / CNIPA	28527765	2018-12-07	34
RELX & Design	US / USPTO	5818187	2019-07-30	34
RELX & Design	EM / EUIPO	017652439	2018-05-18	34

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

Complainant is the owner of the RELX trademark. 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 generic term "wholesale" 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.

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 Wholesale", which suggests that Respondent intended the Disputed Domain Name to be confusingly similar to Complainant's trademark as a means of furthering consumer confusion.

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

The granting of registrations by TH-DIP, 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 trademarks 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 “poomipat thippanya / shoesshop”, 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 a variation of Complainant’s logo, claiming to be “RELX Wholesale”, 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 second and third criteria of the Oki Data Test, which requires that the Respondent must use the website to sell only the trademarked goods or services, and the website accurately discloses the Respondent’s relationship with the Complainant. The website found at the Disputed Domain Name does not only sell Complainant’s RELX products, but also competing products, such as Huabo and Cloud electronic cigarettes and pods. Further, the website 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 named its website as “RELX Wholesale”, (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. 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 February 23, 2021, which is after Complainant’s registration of its RELX trademark with TH-DIP, 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 the generic term "wholesale", 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 brand at the time the Disputed Domain Name was registered. 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.

Respondent creates a likelihood of confusion with Complainant and its trademark by naming its website as "RELX Wholesale" and using a variation of 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 trademarks 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.

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 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 the words "RELX", "wholesale" and ".com". "RELX" is identical to the Complainant's mark. "wholesale" is a descriptive term and cannot help to differentiate the Disputed Domain Name, whereas the top level domain name suffix ".com" shall be disregarded from the comparison. Here, the Panelist considers that the word "wholesale" may even add to the confusion by suggesting that the Disputed Domain Name or its associated website is being used for wholesale services of the Complainant's "RELX" products.

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 does not only purport to sell the Complainant's RELX products, but also products from the Complainant's competitors such as Huabo and Cloud electronic



cigarettes and pods. This website also conspicuously displays a mark which closely resembles the Complainant's "RELX" trademark. The Panelist agrees with the Complainant that 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. The Panelist agrees that the Respondent's use of the Disputed Domain Name does create a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Disputed Domain Name.

Looking at the evidence as a whole, 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 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.

6. 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.

A handwritten signature in black ink, appearing to be 'Eugene Low', written over a horizontal line.

Eugene Low
Panelist

Dated: 4 October 2021