

ADMINISTRATIVE PANEL DECISION

New Relic, Inc. v. Lei Chen

Case No. D2024-0640

1. The Parties

The Complainant is New Relic, Inc., United States of America (“US”), represented by SafeNames Ltd., United Kingdom.

The Respondent is Lei Chen, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <newrelic.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 12, 2024. On February 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 13, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 14, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 14, 2024.

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 Respondent of the Complaint, and the proceedings commenced on February 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 8, 2024.

The Center appointed Charles Gielen as the sole panelist in this matter on March 26, 2024. 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.

4. Factual Background

The Complainant contends it is a leading US corporation providing application performance management tools. The Complainant's offerings include a wide range of full-stack monitoring and observability services; these help its customers manage their data platforms. These services are provided since 2008 and are offered online using the domain name <newrelic.com>. The Complainant operates internationally, with registered office locations across the United States, Europe, the Middle East, Asia and Oceania.

The Complainant holds a portfolio of registrations for the trademark NEW RELIC in several countries and regions in the world, including United States of America trade mark registration, No. 3626844, registered on May 26, 2009 for goods in class 9 and No. 3626846, registered on May 26, 2009 for services in class 42; and European Union Trade Mark No. 014798532, registered on March 14, 2016, for goods in class 9 and services in class 42.

The disputed domain name was registered on August 18, 2016. The disputed domain name resolves to the main website of the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark. The disputed domain name matches the NEW RELIC mark in its entirety, except for the addition of the letter "s" between the "i" and "c". According to the Complainant, the disputed domain name constitutes an example of typo squatting. Internet users may easily mistype or misread the disputed domain name as matching the Complainant's trademark by mistake. The small addition made to the NEW RELIC term is not sufficient to distinguish the disputed domain name from the Complainant's trademark. The Complainant also submits that in assessing whether a disputed domain name is confusingly similar to a trademark, the generic Top-Level Domain ("gTLD") is disregarded.

Furthermore, the Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name. According to the Complainant the Respondent does not have any trademark rights to the term NEW RELIC nor is there any evidence that the Respondent retains unregistered trademarks to the term NEW RELIC, or any similar term. The Complainant also submits that the Respondent has not used, nor prepared to use, the disputed domain name in connection with a bona fide offering of goods or services. On the contrary, the disputed domain name redirects to the website of the Complainant. Such use shows the Respondent's intention to create confusion as to the Complainant's affiliation with the disputed domain name among Internet users seeking the Complainant's offerings. Finally, the Complainant argues the Respondent is not commonly known by the distinctive term NEW RELIC, or any similar term. Therefore, there is no plausible reason for the registration and use of the disputed domain name, other than the motive of taking advantage of the goodwill and reputation attached to the NEW RELIC mark.

Finally, the Complainant argues that the Respondent registered and is using the disputed domain name in bad faith. The Complainant gives several reasons for this. With respect to the registration, the Complainant contends that the disputed domain name has been registered in bad faith because the Complainant's

trademark registrations predate the creation date of the disputed domain name by 7 years and because substantial goodwill has accrued since the Complainant's establishment. Furthermore, the Complainant asserts that the Respondent has engaged in typo squatting, targeting the Complainant hoping to catch Internet users that misspell the Complainant's trademark. With respect to the use of the disputed domain name the Complainant argues that by redirecting Internet users to the Complainant's website, the Respondent retains control over the Complainant's traffic thus creating an ongoing threat to the Complainant, as well as creating confusion as to sponsorship or affiliation between the Complainant and the disputed domain name. This clearly is evidence of bad faith behavior.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's NEW RELIC trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7. Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The only difference between the trademark and the disputed domain name (leaving aside the gTLD ".com") is that a letter "s" has been added between the "l" and the "c". That difference is not sufficient to take away the confusing similarity between the trademark and the disputed domain name.

Therefore, the requirement under paragraph 4(a)(i) of the Policy is met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a Respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the Respondent. As such, where a Complainant makes out a prima facie case that the Respondent lacks rights or legitimate interests, the burden of production on this element shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the Complainant). If the Respondent fails to come forward with such relevant evidence, the Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

First, the Respondent did not show that it owns any rights to the name “newrelisc” nor that it has any license from the Complainant to use its trademark. Second, the Respondent did not argue that it is commonly known, or that it has ever been known under the name “newrelisc”. Furthermore, the Panel did not find any evidence that the Respondent has used, or prepared to use, the disputed domain name in connection with a bona fide offering of goods or services. On the contrary, the disputed domain name redirects to the website of the Complainant. Such use shows the Respondent's intention to create confusion as to the Complainant's affiliation with the disputed domain name among Internet users seeking the Complainant's offerings.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the disputed domain name has been registered in bad faith because the Complainant's trademark registrations predate the creation date of the disputed domain name by 7 years and because, as the Complainant explained, substantial goodwill has accrued since the Complainant's establishment. Furthermore, the Panel finds that the Respondent has engaged in typo squatting. The disputed domain name merely comprises a one letter misspelling of the Complainant's NEW RELIC trademark, resulting in confusion among unsuspecting Internet users looking for the Complainant's services, and in misleading such users as to the source of the disputed domain name. This makes the registration of the disputed domain name a bad faith registration.

With respect to the use of the disputed domain name, the Panel finds that by redirecting the disputed domain name to the website of the Complainant, the Respondent creates confusion as to the sponsorship or affiliation between the Complainant and the disputed domain name. This clearly is evidence of bad faith behavior.

The Panel finds that the Complainant has established the third element of the Policy.

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 name <newrelisc.com> be transferred to the Complainant.

/Charles Gielen/

Charles Gielen

Sole Panelist

Date: April 1, 2024