

## **ADMINISTRATIVE PANEL DECISION**

VKR Holding A/S v. jing jing tian  
Case No. D2022-4669

### **1. The Parties**

The Complainant is VKR Holding A/S, Denmark, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is jing jing tian, China.

### **2. The Domain Name and Registrar**

The disputed domain name <ravelux.com> is registered with Gname 003 Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on December 6, 2022. On December 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 8, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on December 8, 2022, 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 in English on December 12, 2022.

On December 8, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On December 12, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese, and the proceedings commenced on December 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 4, 2023.

The Center appointed Douglas Clark as the sole panelist in this matter on January 16, 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.

#### 4. Factual Background

The Complainant is the parent company of the VELUX Group, which offers windows and indoor systems, ventilation and other indoor climate products. The Complainant was first established in 1941 and provides information about its brand and products via the domain name <velux.com>.

The Complainant is also the owner of several trade mark registrations, including the following:

| <u>Trade Mark</u> | <u>Jurisdiction</u>                        | <u>Registration Number</u> | <u>Registration Date</u> | <u>Class</u>                         |
|-------------------|--|----------------------------|--------------------------|--------------------------------------|
| VELUX             | European Union                             | 000651869                  | July 16, 2004            | 6, 9, 16, 19, 20, 22, 24, 37, 41, 42 |
| VELUX             | European Union                             | 000955609                  | March 31, 2000           | 6, 7, 9, 11                          |
| VELUX             | United States of America ("United States") | 1091446                    | May 16, 1978             | 19                                   |
| VELUX             | United States                              | 1492904                    | June 21, 1988            | 6, 19, 20                            |
| VELUX             | Canada                                     | TMA173331                  | December 18, 1970        | 1, 6, 7, 9, 17, 19, 20, 22, 24       |
| VELUX             | China                                      | 211705                     | August 15, 1984          | 6                                    |

The Complainant was the previous owner of the disputed domain name following a decision in *VKR Holding A/S v. 王俊东 (wang jun dong)*, WIPO Case No. [D2020-0538](#) (WIPO, May 4, 2020) that the disputed domain name be transferred to the Complainant. The Respondent was able to register the disputed domain name as a result of it lapsing when the Complainant failed to renew it.

The disputed domain name was registered by the Respondent on September 15, 2021. At the date of this Complaint, the disputed domain name resolved to a webpage containing links to third-party websites and pornographic content.

The Respondent is an individual based in China, as reported in the Whois. The Respondent is the registrant of a number of domain names that incorporate the trademarks of others, such as:

- <doubiphone.com> (Apple, Inc – IPHONE)
- <foxconnzcc.com> (Hon Hai Precision Industry Co., Ltd. - FOXCONN)
- <taobao029.com> (Alibaba Group Holding Limited - TAOBAO)

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that:

(a) The disputed domain name is confusingly similar to its trade mark VELUX. The disputed domain name is identical to the Complainant's VELUX trade mark preceded by the letters "ra". The use of the generic Top-Level Domain ("gTLD") ".com" in the disputed domain name is typically irrelevant to the consideration of confusing similarity;

(b) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant in any way and the Respondent has never been granted any authorization or license to use the Complainant's trade mark. The Respondent is not commonly known by the disputed domain name and has not made a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name.

(c) The disputed domain name was registered and is being used in bad faith. By using the domain name, the Respondent intentionally attempted to attract for commercial gain Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark. The pornographic materials on the website the disputed domain name resolves to tarnish the Complainant's trade mark.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Issues – Language of the Proceeding**

According to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

In this case, the language of the Registration Agreement for the disputed domain name is Chinese. There is no agreement between the Complainant and the Respondent regarding the language of the proceeding. The Respondent did not respond as to the language of the proceeding. The Complainant has filed its Complaint in English and has requested that English be the language of the proceeding under the following grounds:

- The disputed domain name is comprised of Latin characters;
- The Respondent's website features various phrases in English;
- The term VELUX does not carry any specific meaning in the Chinese language; and
- Translation of the Complaint and continuation of the proceedings in Chinese would cause a delay in the proceedings.

In accordance with paragraph 11(a) of the Rules and taking into consideration paragraph 10(b) and (c) of the Rules, the Panel hereby determines that the language of the proceeding shall be in English after considering the following circumstances:

- the Center has notified the Respondent of the proceeding in both English and Chinese;
- the Respondent has not commented on the language of the proceeding; and
- an order for the translation of the Complaint will result in significant expenses for the Complainant and a delay in the proceeding.

Further, this Panel decided in *Zappos.com, Inc. v. Zufu aka Huahaotrade*, WIPO Case No. [D2008-1191](#), that a respondent's failure to respond to a preliminary determination by the Center as to the language of the proceeding "should, in general, be a strong factor to allow the Panel to decide to proceed in favour of the language of the Complaint".

## 6.2. Substantive Issues

The Complainant must satisfy all three elements of paragraph 4(a) of the Policy in order to succeed in its action:

- (i) the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights to;
- (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 are being used in bad faith.

### A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trade mark. The disputed domain name reproduces the VELUX trade mark in its entirety preceded by the letters "ra". The gTLD ".com" is generally disregarded when considering the first element. (See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant has therefore satisfied the first element under paragraph 4(a) of the Policy.

### B. Rights or Legitimate Interests

The Complainant asserts that the Respondent has no business with and is in no way affiliated with the Complainant. The Respondent is not authorized nor licensed to use the Complainant's VELUX trade mark or to apply for registration of the disputed domain name. There is no evidence that the Respondent is commonly known by the name "Velux".

Section 2.1 of the [WIPO Overview 3.0](#) provides:

"While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests, which has not been rebutted by the Respondent. Accordingly, the Respondent has no rights or legitimate interests in regard to the disputed domain name. Moreover, the disputed domain name features links to third-party commercial websites, seemingly offering online gambling services, as well as pornographic content, which cannot constitute a *bona fide* offering of goods or services.

The Complainant has therefore satisfied the second element under paragraph 4(a) of the Policy.

### **C. Registered and Used in Bad Faith**

Based on the given evidence, the disputed domain name was registered and is being used in bad faith.

The disputed domain name was registered long after the Complainant has registered the VELUX trade mark. The VELUX trade mark is used by the Complainant to conduct its business and the Complainant has used the trade mark for its products for over 52 years. In addition, the disputed domain name was registered by the Respondent after the Complainant allowed it to lapse. The Panel is satisfied that the Respondent was aware of the Complainant and its VELUX trade mark when he or she registered the disputed domain name.

In view of the third-party commercial websites to which the disputed domain name redirects, as well as the advertisements for pornography, it appears to the Panel that the Respondent has registered the disputed domain name to attract Internet users to the website for commercial gain in accordance with paragraph 4(b)(iv) of the Policy. Also, the pornographic content and advertisements in the Respondent's website tarnish the Complainant's trade mark and brand. The Respondent is the registrant of several domain names that misappropriate the trade marks of well-known brands and businesses, showing that the Respondent is engaged in a pattern of cybersquatting.

For the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The Complainant has therefore satisfied the third element under paragraph 4(a) 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, <ravelux.com> be transferred to the Complainant.

*/Douglas Clark/*

**Douglas Clark**

Sole Panelist

Date: January 30, 2023