



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

— A charitable institution limited by guarantee registered in Hong Kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1200437
Complainant:	The Red Flag Group, Ltd.
Respondent :	The Steele Foundation

1. The Parties and Contested Domain Name

The Complainant is The Red Flag Group, Ltd. of 2204-06, Bonham Trade Center, 50 Bonham Strand, Sheung Wan, Hong Kong, represented by Simmons & Simmons of One Pacific Way, 88 Queensway, 13th Floor, Hong Kong.

The Respondent is The Steele Foundation, of 101 California Street, Suite 2450, San Francisco, California 94111 US represented by its General Counsel, Mr. Dennis P. Haist.

The domain name at issue is <theredflaggroup.com>, registered by the Respondent with GoDaddy, LLC, of 14555 N. Hayden Road, Suite 226, Scottsdale, Arizona 85260 US.

2. Procedural History

On June 8 2012, the Complainant submitted its original Complaint in English regarding the domain name <theredflaggroup.com> to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the "Centre"), and subsequently amended the Complaint through an electronic filing with the Centre on June 19, 2012. The original Complaint and its amended version (for simplicity all references to the Complaint will be to the amended version except where specific reference is made to either document). The Complaint was filed in accordance with the Uniform Domain Name Dispute Resolution Policy (the "Policy") adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on August 26, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the "Rules") approved by ICANN on October 24, 1999, and the Asian Domain Name Dispute Resolution Centre Supplemental Rules in effect as of February 28, 2002.

By email message dated June 19, 2012, the Center confirmed the online receipt of the Complaint, together with accompanying Annexes. The Complainant requested a single-person panel.

After receiving the original Complaint, the Centre, in accordance with the Supplemental Rules, determined whether that the original Complaint complied with the formal requirements of the Rules and the Supplemental Rules. In that regard, on June 12, 2012, the Centre requested the Registrar to confirm: (a) that the disputed domain name was

registered with the Registrar, (b) whether the Respondent is the registrant or holder of the name, and (c) whether the Policy applies to the name; and to specify: (d) the language of the registration agreement, (e) WhoIs information for the name, and (f) the current status of the name.

On June 13, 2012, the Registrar provided its response to the Centre through which the Centre determined that the original Complainant contained various deficiencies, including, among others, identifying the registrant as “Domains by Proxy LLC” which is a privacy service. In response to the Registrar informing the Centre of the true identity and contact information of the registrant as reflected in its WhoIs records, the Centre required the Complainant to file an amended complaint to correct this and all other deficiencies. The Complainant did so. The Registrar also noted in its response that: (a) the Policy applies to the name, (b) the registration agreement is in the English language, and (c) the name is currently locked.

On June 21, 2012, the Centre sent the Complaint to the Respondent. The Respondent was then provided with a 20 calendar day period, expiring on July 11, 2012, to file its Response both with the Centre and the Complainant.

On July 10, 2012, Respondent’s domain administrator, Mr. Todd Lane, sent a request by e-mail to the Registrar through which he stated the Respondent’s desire to assign the disputed domain name to the Complainant or, failing that, have the registration for the name canceled. The message stated:

“Reference is made to domain dispute No. HK-1200437 <theredflaggroup.com>. The Respondent, The Steele Foundation wishes to immediately assign the domain name which is the subject of the ADNDRC (Hong Kong) administrative proceeding to the Complainant, The Red Flag Group, Ltd. Alternatively, if assignment cannot be completed for any reason, the Respondent wishes to cancel its registration of the domain name <theredflaggroup.com>. Please confirm that Go Daddy will proceed to assign or cancel the domain name or provide an explanation for its refusal or inability to do so.”

On July 10, 2012, the Respondent’s representative, Mr. Haist, by e-mail message, informed the Centre that the Respondent previously filed a request with the Registrar to assign the disputed domain name to the Complainant or alternatively cancel the registration. His message stated as follows:

“I represent The Steele Foundation in connection with the subject domain name dispute and am authorized to communicate the contents of this message. The Steele Foundation has authorized me to advise you that it has instructed the Domain Registrar, Go Daddy.com, LLC to assign the domain name <theredflaggroup.com> to the Complainant or alternatively, to cancel the registration.

Please confirm by close of business on July 10, 2012, that with the granting of the relief sought, the ADNDRC proceeding will be moot and not proceed to decision. If, for any reason, the ADNDRC proceeding will proceed to a published decision, the Respondent will be filing a timely Response on July 11, 2012.”

On July 11, 2012, the Centre responded to the Mr. Haist's message stating that under the UDRP, it is unable to terminate the present proceeding unless the Complainant withdraws the Complaint or the Panelist terminates the Proceeding in accordance with Article 17 of the Rules. On the same date, the Respondent electronically filed a formal Response with the Centre, which in paragraph 13, captioned "Other Relevant Details", stated:

"On July 5, 2012, Respondent requested that the domain name Registrar, Go Daddy.com, LLC transfer the domain name which is the subject of this dispute to the Complainant or alternatively, to cancel the domain name. Go Daddy responded on July 9, 2012 that this was not possible unless Complainant suspended the proceeding."

The Complainant, by an e-mail dated July 12, 2012 to the Centre, stated its intention to file a reply to the Response along with supplemental information, and requested the Panel to permit the Complainant to do so.

Pursuant to the Rules and Supplemental Rules, the Centre, by email dated July 18, 2012, contacted the undersigned, Mr. Peter L. Michaelson, Esq., inquiring as to whether he would be available to hear this matter and in a position to act independently and impartially between the parties.

Subsequently, on that day, Mr. Michaelson responded and indicated his availability and affirmed his ability to act completely independently and impartially in this matter. The Centre, through an email dated July 27, 2012, notified the Parties of the appointment of Mr. Michaelson as the Sole Panelist.

Based on the deadline set forth in paragraph 15 of the Rules, a decision was to be issued by the Panel to the Center on or before August 9, 2012. However, due to exceptional circumstances recently experienced by the Panel, the Panel extended the deadline to August 23, 2012.

Upon review of the Response, the Panel, for reasons of potentially conserving time and cost, requested the Centre, through an e-mail message dated July 30, 2012, to inquire of the Respondent as to whether it was still willing to unconditionally transfer the disputed domain name to the Complainant. The Centre did so through an e-mail dated August 2, 2012 which stated:

"As per the Panelist's instruction, we would like to inquire from you whether you are still willing to unconditionally transfer the disputed domain name <theredflaggroup.com> to the Complainant. "

The Centre set a deadline of August 6, 2012 for any reply from the Respondent.

On August 8, 2012 and in an e-mail message to the Centre, Mr. Lane, replying for the Respondent, apologized for his delay and re-iterated the Respondent's willingness to unconditionally transfer the domain name to the Complainant, as it previously offered, by stating:

"My apologies for the tardy response. We are still willing to transfer the named domain with no restrictions as we previously offered."

3. Respondent's acquiescence to transfer; need for a Panel decision

The Respondent has consented to unconditionally transfer the domain name to the Complainant as it initially offered in Mr. Lane's e-mail to the Registrar on July 10, 2012, then stated in Mr. Haist's message of July 10, 2012 to the Centre, repeated in its Response and ultimately confirmed through Mr. Lane's e-mail message of August 8, 2012 to the Centre.

Though the Respondent seeks to transfer the disputed domain name, thus acquiescing in the Complainant's demand, neither the Registrar nor the Centre, either acting on its own, has the power to effectuate the transfer and terminate this proceeding. As correctly noted by the Registrar, under Paragraph 17 of the Rules, the Panel has the authority to terminate this proceeding if, in advance of a decision in the matter, the parties have reached a settlement. However, no such settlement has been reached. Moreover, the Complainant has neither withdrawn its Complaint nor requested that the Centre suspend the proceeding.

The Panel infers from the absence of any such settlement, withdrawal or suspension request, that the Complainant desires that the Panel issue a decision transferring the disputed name to the Complainant which, in turn, the Registrar will effectuate. The Panel now does so.

In light of this procedural outcome, the Panel, in the interest of judicial economy, sees no reason to provide a summary of the underlying facts and contentions, and any findings under any element of paragraph 4(a) of the Policy -- as all such discussions, as well the Complainant's request for leave to file a reply along with additional information, are all now moot.

4. Decision

Accordingly, under paragraphs 4(i) of the Policy and 15 of the Rules, the Panel grants the relief sought by the Complainant.

The disputed domain name, <theredflaggroup.com>, is ordered transferred to the Complainant.

Peter L. Michaelson, Esq.
Panelist

Dated: August 18, 2012