

## **ADMINISTRATIVE PANEL DECISION**

### **Travellers Exchange Corporation Limited v. WhoisGuard, Inc. / Lord Oxford Case No. D2018-1523**

#### **1. The Parties**

The Complainant is Travellers Exchange Corporation Limited of London, United Kingdom of Great Britain and Northern Ireland (“United Kingdom” or “UK”), represented by Dechert, United Kingdom.

The Respondent is WhoisGuard, Inc. of Panama / Lord Oxford of Brisbane, Australia, self-represented.

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

The disputed domain names <travelex.blue>, <travelex.info>, <travelexlax.club>, <travelexlax.site>, <travelex.news>, <travelex.space>, <travelex.tech>, <travelexuk.club>, <travelexuk.network>, <travelex.world>, <travelx.cash>, and <travelx.press> are all registered with NameCheap, Inc. (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 6, 2018. On July 9, 2018, the Center transmitted, by email, to the Registrar a request for registrar verification in connection with the disputed domain names. Subsequently, on July 9, 2018, the Registrar transmitted, by email, to the Center its verification response confirming that the Respondent Lord Oxford is listed as the registrant for all the disputed domain names and providing the contact details.

The Center verified that the 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 that this proceeding commenced on July 16, 2018. In accordance with the Rules, paragraph 5, the Center set the due date for Response to August 5, 2018. The Center received three informal email communications from the Respondent on August 9, 2018, after the Response was due, but did not receive a substantive response from the Respondent.

The Center appointed Peter L. Michaelson as the sole panelist in this matter on August 10, 2018. 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

As reflected in the registration records for the twelve disputed domain names in the public Whois database (a copy of these records appears in Annex A to the Complaint), the following table provides the dates on which all the disputed domain names were registered and the corresponding expiration dates of these registrations:

Domain Name	Registration Date	Expiration Date
<travelx.press>	July 11, 2017	July 11, 2019
<travelex.blue>	February 3, 2018	February 3, 2019
<travelexlax.club>	February 4, 2018	February 4, 2019
<travelexlax.site>	February 4, 2018	February 4, 2019
<travelex.news>	February 5, 2018	February 5, 2019
<travelx.cash>	February 5, 2018	February 5, 2019
<travelexuk.club>	February 5, 2018	February 5, 2019
<travelexuk.neetwork>	February 5, 2018	February 5, 2019
<travelex.space>	February 12, 2018	February 12, 2019
<travelex.info>	February 12, 2018	February 12, 2019
<travelex.tech>	February 12, 2018	February 12, 2019
<travelex.world>	February 17, 2018	February 17, 2019

##### A. The Complainant's TRAVELEX marks (collectively the "TRAVELEX Marks")

As indicated in the Complaint, the Complainant owns numerous national and international trade mark registrations worldwide, including in Australia, for the term "TRAVELEX" in block letters. The Complainant has provided, in Annex D to the Complaint, a listing of its global portfolio of trade mark registrations and in Annex E to the Complaint, print-outs from the websites of the US Patent and Trademark Office (USPTO), the UK Intellectual Property Office (UKIPO), and the European Union Intellectual Property Office (EUIPO), of the registration records of its registrations in respectively the US, UK, and European Community. Pertinent details of a small representative sample of the Complainant's registrations are as follows:

- (i) TRAVELEX (word)  
Australia registration: 663330  
Registered: November 28, 1997; Filed: June 6, 1995

This mark is registered for use in connection with: "Money exchange services" in international class 36.

- (ii) TRAVELEX (word)  
United Kingdom Registration No.: 2207981  
Registered: February 4, 2000; Filed: September 8, 1999

This mark is registered for use in connection with: "Periodical publications, books, index cards, transfers (decalcomanias); credit cards, debit cards; charge cards; cheque guarantee cards, cards and other apparatus used in relation to the electronic transfer of funds and other financial transactions; travellers'

cheques, cheque books, money orders; adhesive materials (stationery); writing instruments and writing apparatus and parts of such apparatus”, all in international class 16.

- (iii) TRAVELEX (word)  
United Kingdom Registration No.: 1343462;  
Registered: September 20, 1991; Filed: May 4, 1988

This mark is registered for use in connection with: “Insurance and financial services, all relating to travel”, in international class 36.

- (iv) TRAVELEX (word)  
United States Registration No. 1694803  
Registered: June 16, 1992; Filed: May 8, 1990

This mark is registered for use in connection with: “Travel insurance services; namely, travel agency and/or travel underwriting services, currency exchange services, banking services, credit card services, travellers’ cheques issuance and redemption services, information services in the nature of rates of exchange, money transmission services and ‘VAT’ refund services”, all in international class 36. This registration claims that, in conjunction with these services, first use of the mark and its first use in commerce occurred on June 30, 1985 and April 17, 1989, respectively.

#### B. The Parties and their interactions

The Complainant is part of the Travelex group of companies (“Travelex”). Travelex is an international retail foreign exchange and money transfer service provider. It currently serves approximately 37 million customers annually and operates, across 30 countries, with approximately 1,250 automated teller machines (ATMs) and over 1,500 branded retail branches. Travelex has been operating a currency exchange business since 1976.

Travelex has widely advertised its goods and services worldwide under the mark TRAVELEX including to the public through print media (newspapers and magazines), billboards, television and over the Internet. Travelex also engages in significant sponsorship activity under the mark and has sponsored world famous sports stars and sports teams as well as cultural institutions.

Travelex has been recognized for the quality of its products and services and has received numerous awards and nominations, including the following: “Best Prepaid Marketing Campaign” award for the Travelex Limited Edition Royal Wedding Prepaid Card at the Prepaid 365 Awards 2012; “Best FX Product Award” at the Australian Banking & Finance’s Corporate and Business Banking Awards 2010; “Best Travel Campaign Award” at the New Media Age Awards 2010; “Best International Prepaid Program” and the “Best Corporate Prepaid Program” awards at the 2009 Prepaid Awards; and has been a finalist of the “Best Prepaid Product of the Year” award at the Card and Payments Awards 2016.

For the year ended December 31, 2016, Travelex had global revenue that exceeded GBP 777.5 million. Additional information about Travelex can be found at its websites located at <[www.travelex.com](http://www.travelex.com)>, <[www.travelex.co.uk](http://www.travelex.co.uk)>, and <[www.travelex-corporate.com](http://www.travelex-corporate.com)>.

The Complainant has another administrative proceeding, filed on June 15, 2018, co-pending with this proceeding. The earlier-filed proceeding is *Travellers Exchange Corporation Limited v. WhoisGuard, Inc. / Lord Oxford*, WIPO Case No. D2018-1340 concerning the Respondent’s allegedly abusive filing of the following five domain names <[travelex.express](http://travelex.express)>, <[travelex.finance](http://travelex.finance)>, <[travelex.limited](http://travelex.limited)>, and <[travelex.loans](http://travelex.loans)> and <[travelex.press](http://travelex.press)>. For ease of reference and to prevent reader confusion, these five names will be collectively referred to as the “original disputed names”, that administrative proceeding will be referenced as “companion case D2018-1340”, and the twelve domain names that are the subject of the present proceeding will be referred to as the “present disputed domain names”.

On February 2, 2018, the Complainant's solicitors sent a cease and desist email letter to the Respondent requesting the Respondent to transfer all of the original disputed names to the Complainant. On February 16, 2018, the Complainant's solicitors received a response from the Respondent through which the Respondent claimed not to have received any letter from the solicitors and stated, *inter alia*, that the solicitors had been "hired by Travelex uk Ltd to purchase or to steal domains from me" and inquired whether those solicitors were "asked to steal from, bully, threaten or frighten me, for Example" [sic]. Later, on February 16, 2018, the solicitors sent a second email to the Respondent confirming their role as representing the Complainant. Subsequently, on March 12, 2018, the Respondent further responded, by email, to the February 2nd letter asking whether the solicitors, planned "to obtain them [the domain names] as your rights as an authorized thief?" and stated "Perhaps You have already decided to declare war on me, without any reason for me to be your enemy. I am not unless you make it so...". Moreover, through the March 12th email, the Respondent asked whether the Complainant was interested in purchasing four of the original disputed names <travelex.express>, <travelex.finance>, <travelex.limited>, and <travelex.loans>, and, if so, whether the Complainant wished to make an offer or for the Respondent to name a price. The Complainant's solicitors did not respond to the March 12th message. On May 20, 2018, the Respondent sent another email to the Complainant's solicitors through which the Respondent implicitly offered to sell the fifth original disputed name <travelex.press> to the Complainant "if the price is right". A copy of all this correspondence appears in Annex G to the Complaint. No such communications appear in the record here regarding any of the twelve present disputed domain names.

Prior to the Complainant's February 2nd letter, neither the original disputed names nor the present disputed domain names resolved to any operational websites. Shortly after the Respondent received that letter, the Respondent started using 11 of the present disputed domain names: <travelex.world>, <travelex.blue>, <travelex.news>, <travelx.cash>, <travelex.info>, <travelex.tech> and <travel.press>, <travelexlax.club>, <travelexlax.site>, <travelexuk.club> and <travelexuk.network> to address corresponding websites which all provided the same content through a single web page on each site, a screen-shot of each of the corresponding web pages from these sites appears in Annex H to the Complaint. Some of that content is directed against the Complainant and bankers in general being as follows:

"Travelex.co.uk's object is to convert any dishonest money in one place to other 'currencies' elsewhere — particularly the pockets of its operators. These 'Thieves' of England are expecting to steal this system and its name because they run such a 'Money Laundry' scheme. Already-successful in providing such under the ruse of providing money to travellers - from their bank accounts or CASH in England to Bank accounts in foreign nations and thence to teller machines, It is in direct competition with the banks own transfer system it provides that same transfer but takes out an extra slice for purported 'Ease' and purported 'reliability' in imitation of the long established 'Western Union' one

Thieves and villains... Do not want people to highlight, or make public the details of their deals — either underhand or overhand — and they can only operate where they can find People (AKA "Marks") to (foolishly) trust that company more than traditional Banks (who are also a bunch of deceptive thieves, seeking such Marks)

when it comes to 'Marks' they are not just (unwary) people but also TRADE Marks — set up by and protected by Solicitors in exchange for very large fees

The villains mentioned above Travelex.co.uk Has and is making a lot of money (with the protection of Solicitors they can afford to purchase) to distort the law in their favor and allow the theft of quite different domains (a sort of affordable trade mark available to ME and EVERYBODY GLOBALLY — not just a bunch of 'Pretend Bwankers' prepared to do more dubious transfers than the 'already dubious' established Bank Of England and other commercial Banks — and Travelex.co.uk is CURRENTLY trying to steal several domain names from me (rather than pay for them) with equally corrupt solicitors prepared to work for them, and call these thieves 'their honorable clients' for a very large fee.)

Individuals or corporations trading with Travelex.co.uk or with Travelex.co.uk when Hidden behind one of my similar names — about to be stolen and NONE of which have the '.UK' suffix

should go elsewhere,

or take great care,

and be aware,

that this and these domains will likely fall silent, if they continue with this dishonorable theft action rather than PAY for such domains HONORABLY on a WIN:WIN basis or play WIN:LOSE or just ensure that I LOSE which they and/or their solliciturds would consider A WIN

Unless and/or in spite of me getting murdered, these transactions will get further comment on the many other websites of the news media as well as my own" [sic].

Each such page also contains a disclaimer in the middle of the page and in red font which states:

"The Money Laundry Known as Travelex.co.uk Which is NOT an associate," [sic].

Respondent's other website resolvable through <travelex.space> carries identical content, again through a single web page, though different from that provided by the other 11 present disputed domain names and identical to that provided on the Respondent's website accessible through one of the original disputed names: <travelex.limited>. Specifically, this sites contains the caption at the top of its sole page "New Website. Coming shortly - temporarily housed here". While this page does not mention the Complainant, it included disjointed and unclear content apparently concerning general societal risks resulting from overpopulation. Subsequently, the Respondent apparently changed the content provided by all its corresponding websites resolvable by the twelve present disputed domain names and its five original disputed names to an identical webpage as described next.

The Respondent, to the extent noted in his informal communications to the Center on August 9, 2018, very briefly alludes to a transportation system he conceived stating:

"... www.Kiribus.com – It's spoken that way but spelt Kiribati, formerly "the Gilbert islands" - a 5<sup>th</sup> world nation (5<sup>th</sup> out of 5) most remote, in the centre of the Pacific with a PEAK height above high tide of THREE metres, and an average of ONE metre.

Population there already very overcrowded and doubling in just 20 years. Main or Only export is "CUPRA" which is the "Meat" of coconuts.

The devices described on www.TravelEx.press are one of many designs to relieve its MECHANICAL (engineering) problems, and may help them solve their VITAL social (overpopulation) problem and gain 2<sup>nd</sup> world status in a reasonable time, as an example to the rest of us in the (apparently) less threatened world.. of how the awful future we choose to ignore that we are creating can be lessened by clearer thinking and caring actions" [sic].

Currently, all of the Respondent's websites, addressable by the present disputed domain names or the original disputed names, appear to contain the same content. Some of this content is highly disparaging of ICANN and the Complainant's solicitors, while the rest constitutes a few paragraphs which appear to describe this system, but only in terms of providing a broad high-level conceptual overview, including, among other information, it being based on 3- or 4-wheeled autonomously-operated vehicles traveling within a tube connecting various locations.

The Respondent, operating under different aliases, has previously been involved as respondent in nine prior UDRP proceedings resulting from abusive registration of domain names that included third-party marks or confusingly similar variants thereof, namely: *The Chancellor, Masters and Scholars of the University of Oxford v. DR Seagle*, WIPO Case No. D2000-0308; *The Chancellor, Masters and Scholars of*

*the University of Oxford v Dr Seagle t/a Mr. Oxford-University*, WIPO Case No., D2001-0746; *Macquarie Bank Limited v. Robert Seagle aka Oxford University*, WIPO Case No. D2003-0374; *Macquarie Bank Limited v. Mike Smith*, WIPO Case No. D2003-0890; *Westpac Banking Corporation v. Sir Oxford University aka David Seagle Doc Seagle and Mr Oxford University*, WIPO Case No. D2003-0250; *Harvey Norman Retailing Pty Ltd v Oxford-University*, WIPO Case No. D2000-0944; *Deutsche Lufthansa AG v. David Seagle using the alias "Lord Oxford"*, WIPO Case No. D2009-1329; and *Commonwealth Bank of Australia v. WhoisGuard Protected, WhoisGuard, Inc. / Lord Oxford*, WIPO Case No. D2018-0769.

## 5. Parties' Contentions

### A. Complainant

#### (i) Identical or Confusingly Similar

The Claimant contends that each of the present disputed domain names is identical or confusingly similar to its mark TRAVELEX.

Specifically, each of six of the present disputed domain names <travelex.world>, <travelex.blue>, <travelex.news>, <travelex.space>, <travelex.info> and <travelex.tech>, contains this mark to which a corresponding and different generic Top-Level Domain ("gTLD") ".world", ".blue", ".news", ".space", ".info", and ".tech", has been appended. As gTLDs are generally ignored for purposes of assessing identity, each of these names is identical to the mark TRAVELEX.

Alternatively, as each of these gTLDs is applicable to and generally describes the services offered by the Complainant and "would be expected to be used by, or in relation to the Complainant" and thus serves to reinforce the Complainant as a source of these services in the minds of its Internet users and customers, none of these gTLDs imparts any distinctiveness, let alone sufficient, to the corresponding domain name to effectively prevent that name from confusing those users and customers. Hence, the Complainant implicitly alleges that each of these names is also confusingly similar to its mark TRAVELEX.

Each of four of the remaining present disputed domain names <travelexlax.club>, <travelexlax.site>, <travelexuk.club> and <travelexuk.network> contains the mark TRAVELEX to which a generic term ("lax") or geographic descriptor ("uk") has been appended followed by a different gTLD (".club", ".site", ".network"). Neither the added word or geographic descriptor nor any of these gTLDs imparts sufficient distinctiveness to the resulting name to prevent Internet users, faced with the name and having knowledge of the mark, from thinking that the parties are related, associated or connected in some fashion, when in fact they are not.

As to the two remaining present disputed domain names, <travelx.cash> and <travelx.press>, each of these merely contains a minor modification of the mark TRAVELEX, *i.e.*, omission of the second instance of the letter "e" from the mark. Such a modification also does not impart sufficient distinctiveness to the resulting domain name to assuage likely confusion of Internet users.

Thus, the Claimant believes that it has satisfied the confusing similarity/identity requirement in paragraph 4(a)(i) of the Policy.

#### (ii) Rights or Legitimate Interests

The Complainant contends that, for either of two reasons, the Respondent has no rights or legitimate interests in any of the present disputed domain names pursuant to paragraphs 4(a)(ii) and 4(c) of the Policy.

Specifically, the Respondent is neither licensed nor otherwise authorized by the Complainant to use any of its TRAVELEX Marks, including in a domain name. As the Complainant has been in business for 41 years prior to the dates in July 2017 and February 2018 when the Respondent registered each of the present disputed domain names, it is reasonable to assume that the Respondent did not independently conceive of

the term TRAVELEX but was well aware of the Complainant and its rights and reputation in its mark TRAVELEX and, in spite of that knowledge, chose to use that mark either in its entirety, a minor modification thereof or with a non-descriptive additional term appended to it as a second level domain in each of the present disputed domain names. Thus, the Complainant implicitly alleges that, in light of its long established rights and reputation in its TRAVELEX Marks, the Respondent was never commonly known by any of the present disputed domain names and could never be, thus failing to qualify under paragraph 4(c)(ii) of the Policy.

Furthermore, as the Respondent was never authorized to use the mark TRAVELEX, then its use, which incorporates the Complainant's mark in its entirety or a minor modification thereof in the second level domain of each of the present disputed domain names, takes unfair advantage of the Complainant's rights in that mark and misleadingly diverts users from the Complainant's website to the Respondent's corresponding website. Such use can never qualify, under paragraph 4(c)(iii) of the Policy, as either a legitimate noncommercial or a fair use of the names without intent for commercial gain to misleadingly divert consumers or tarnish the Complainant's TRAVELEX Marks. Even a general right of the Respondent to make legitimate criticism under paragraph 4(c)(iii) of the Policy does not necessarily extend to its registering or using domain names (ignoring their gTLDs) that are identical or confusingly similar to the Complainant's mark, as here.

Consequently, under the present facts of record, there is simply no plausible actual or contemplated use by the Respondent of any of the present disputed domain names that would be legitimate under paragraph 4(c) of the Policy.

#### (iii) Registered and Used in Bad Faith

The Complainant also contends that, for various reasons, the Respondent has registered and is using each of the present disputed domain names in bad faith in violation of paragraph 4(a)(iii) of the Policy.

Specifically, the Respondent registered these names primarily for the purpose of disrupting the Complainant's business, thus violating paragraph 4(b)(iii) of the Policy. The Respondent must have been aware of the Complainant's mark TRAVELEX and its rights in that mark at the time he registered all the names. By incorporating that mark or a slightly modified but nevertheless confusingly similar version of it within the second level domain of each of the names, the Respondent intended to and did exploit the substantial worldwide reputation which the Complainant established in its mark for the Respondent's own pecuniary benefit and to the Complainant's detriment by likely causing Internet users to believe that they have reached a website associated with the Complainant when, in actuality, they were diverted to the Respondent's corresponding site instead. This diversion effectively denied the Complainant from having received this Internet traffic and having transacted business with corresponding senders, thus injuring the Complainant's online business.

In addition, the Respondent has engaged in a pattern of abusive registrations and bad faith conduct, as reflected in nine prior UDRP decisions involving the Respondent.

While each of the Respondent's websites includes a disclaimer of any affiliation with the Complainant, that disclaimer is insufficient to negate the overall nature of the Respondent's bad faith and moreover is a tacit admission by the Respondent that his use of the names may likely cause confusion of Internet users. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, 3rd Edition ("WIPO Overview 3.0"), paragraph 3.7.

## **B. Respondent**

Throughout this proceeding, the Respondent submitted several email communications to the Center, all of which were carefully reviewed by the Panel. These communications basically contained commentary disparaging to the Complainant, its solicitors, and bankers in general and also, in some instances, content concerning various environmental and social issues. All these communications were completely devoid of a response, substantive or otherwise, to any of the specific allegations made by the Complainant for each

element of paragraph 4(a) of the Policy. Thus, the Respondent failed to contest any of the allegations made by the Complainant. Accordingly, the Panel accepts and so bases its decision on the undisputed allegations which the Panel finds are not inherently implausible.

## 6. Complainant's Request for Consolidation

The Complainant requested that, for the purposes of added expediency and efficiency, this proceeding be consolidated with that of companion case D2018-1340. The Panel declines to do so.

The Panel concluded that, although both proceedings are highly similar including identity of the parties involved (in terms of the same Complainant and the same Respondent), nevertheless due to factual differences occurring between the two proceedings, the Panel concluded that it would be easier and more expedient for the Panel and simpler for reader comprehension to treat each case separately and prepare two corresponding, though quite similar decisions, each taking into account its appropriate factual record, than rendering a single consolidated decision for both cases.

## 7. Discussion and Findings

### A. Identical or Confusingly Similar

The Panel finds that each of six of the present disputed domain names <travelex.world>, <travelex.blue>, <travelex.news>, <travelex.space>, <travelex.info>, and <travelex.tech>, is, for all practical purposes, identical to the Complainant's mark TRAVELEX.

The only difference between each of these six disputed domain names and the mark is merely the appending of a corresponding one of the gTLDs ".world", ".blue", ".news", ".space", ".info", and ".tech", to the mark, with this addition generally being ignored in assessing confusing similarity/identity. Well-established UDRP precedent holds that "the addition of a gTLD, the deletion of spaces or other such trifling changes are utterly *de minimus*, if not completely irrelevant, in assessing confusing similarity/identity and thus are typically ignored". See, e.g., *Jelani Jenkins v. Amy Lewis*, WIPO Case No. D2014-0695.

As to the remaining six of the present disputed domain names, <travelex.lax.club>, <travelex.lax.site>, <travelex.uk.club>, <travelex.uk.network>, <travelex.cash>, and <travelex.press>, the Panel finds, from a simple comparison of each of these names to the Complainant's mark TRAVELEX, that, without any doubt, the disputed domain name is confusingly similar to the mark. Each of these six names consists of either: (a) a slightly modified version of the mark with the second "e" omitted, or (b) the mark in its entirety appended by the terms "lax" or "network" (in such case, the gTLD) or a geographic descriptor "uk" to which, in any of these situations, a corresponding gTLD has been added.

It is now very well-established in UDRP precedent, including numerous decisions previously rendered by this Panel, that a minor variation to a mark is usually insufficient in and of itself, when used in forming a domain name that results from modifying the mark, to confer requisite and sufficient distinctiveness to that name to avoid user confusion. Here, the Respondent's addition of the descriptive terms "lax" or "network" or the geographic descriptor "uk" to the mark or its slight modification of the mark all clearly resulted in such a minor variation. See, e.g., *Calvin Klein Trademark Trust and Calvin Klein Inc. v. Abeer Ayoub*, WIPO Case No. D2018-0387; *SAP SE v. Lakshmi Reddy Bhunireddy and P. Hareesh*, WIPO Case No. D2017-0396; *Compagnie Générale des Etablissements Michelin v. Cameron Jackson*, WIPO Case No. D2016-2392; *Kumfs Brand Limited v. George*, WIPO Case No. D2016-1272; *Dubizzle Limited BVI v. Rana Anabtawi*, WIPO Case No. D2016-0843; and *Chicago Mercantile Exchange Inc. and CME Group Inc. v. Domains By Proxy, LLC / Phupinder Gill*, WIPO Case No. D2015-1842.

Hence, the Complainant has satisfied its burden under UDRP paragraph 4(a)(i).

## B. Rights or Legitimate Interests

Based on the evidence of record here, the Panel finds that no basis exists which would appear to legitimize a claim of rights or legitimate interests by the Respondent to any of the present disputed domain names under paragraph 4(c) of the Policy.

The Complainant has never authorized the Respondent to utilize any of the Complainant's TRAVELEX Marks and does not have any relationship, affiliation or connection whatsoever with the Respondent.

Further, with respect to paragraph 4(c)(i) of the Policy, the Respondent does not now use nor has it ever made any demonstrable preparations to use any of the present disputed domain names in conjunction with a *bona fide* offering of any goods or services. Based on the facts of record, particularly the screenshots provided in Annex H to the Complaint of the Respondent's websites, there is no evidence that the Respondent is offering any goods or services through any of its corresponding websites or has made any demonstrable preparations to do so. Rather, these sites provide commentary that disparages the Complainant, its solicitors and apparently bankers in general, and also commentary concerning various environmental and social issues. Thus, the Respondent's use of the names fails to qualify under paragraph 4(c)(i) of the Policy.

Moreover, as to paragraph 4(c)(ii) of the Policy, the record is entirely devoid of any evidence which reflects that the Respondent is currently or has ever been commonly known by any of the present disputed domain names or any of the Complainant's TRAVELEX Marks. Given that the notoriety and consequently substantial reputation that the Complainant has acquired in the mark TRAVELEX since it first registered that mark on November 28, 1997 in Australia (where the Respondent Lord Oxford is located) and earlier elsewhere in the world – that date being more than 20 years prior to the dates in July 2017 and February 2018 during which the Respondent collectively registered the present disputed domain names, the Respondent could not legitimately acquire such a public association or even an association with any mark similar to any of those of the Complainant – at least for the services provided by the Complainant under any of its TRAVELEX Marks – without interfering with the exclusive trade mark rights of the Complainant. See, e.g., *Covestro Deutschland AG v. Kay Mone / KMN INC.*, WIPO Case No. D2018-0145; *Alstom v. Zahir Khan, Palki Event Inc.*, WIPO Case No. D2017-1124; *Philip Morris USA Inc. v. Daniele Kanai, iKiss LLC*, WIPO Case No. D2015-1527; *Valero Energy Corporation and Valero Marketing and Supply Company v. Lisa Katz, Domain Protection LLC / Domain Hostmaster, Customer ID: 62520014085963*, WIPO Case No. D2015-0787.

Lastly, the Respondent's current use of the present disputed domain names, certainly in a manner that commercially benefits himself, is neither noncommercial nor reflective of fair use within the meaning of paragraph 4(c)(iii) of the Policy. Specifically, if the Respondent truly intended to provide a website solely to provide commentary critical of the Complainant or its solicitors, or for that matter any other topic including societal risks resulting from overpopulation or his conception of a future transportation system, the Respondent would not need to register numerous domain names to do so and ultimately post identical content to all of those related websites. The content which the Respondent originally posted at most of those sites and different but again identical content he posted at the remaining site – though after he received notification of the present dispute – was highly disparaging of the Complainant and its solicitors. Sometime later, the Respondent changed the content at all twelve sites to describe a common high-level conceptual description of his transportation system, without any specific mention of the Complainant but still disparaging its solicitors. The Panel views the Respondent's actions in successively changing the content of its websites, resolvable through all the present disputed domain names, as merely implicit pretextual attempts to disguise, through a superficial veneer of providing legitimate noncommercial content, the Respondent's true intent of profiting from the sale of these names. This intent becomes rather evident to the Panel by the Respondent's actions of having deliberately registered multiple domain names in order, as discussed in the section on bad faith registration and use below, to likely solicit an offer from the Complainant to purchase the names from the Respondent at a profit rather than using any of them primarily as a vehicle in posting noncommercial, even derogatory, content that would qualify under paragraph 4(c)(iii) of the Policy. Exploiting the names in this manner cannot and does not qualify under paragraph 4(c)(iii) as a

legitimate noncommercial or fair use of any of the names without intent for commercial gain.

Consequently, the Respondent does not satisfy any of paragraphs 4(c)(i), (ii) and (iii) of the Policy and thus has no rights or legitimate interests in any of the present disputed domain names under paragraphs 4(a)(ii) and 4(c) of the Policy.

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

The Panel finds that the Respondent's actions, with respect to each of the present disputed domain names, constitute bad faith registration and use.

Given that the Complainant started its business approximately 41 years prior to the dates in June 2017 and February 2018 during which the Respondent collectively registered the present disputed domain names and the Complainant's trade mark registrations for its TRAVELEX Marks predate those dates by more than 20 years and, over those years, have acquired substantial worldwide reputation and goodwill, including in Australia, the Panel is left with only one plausible finding and so finds: the Respondent was well aware, prior to having registered each of the names, of the Complainant and its mark TRAVELEX, the considerable recognition which that mark acquired and the exclusive rights which the Complainant then held in that mark.

Yet, in spite of that knowledge, the Respondent deliberately registered each of these names for its potential to cause confusion of Internet users which, in turn, might well motivate and ultimately compel the Complainant to purchase the names from the Respondent at a price likely well in excess of the Respondent's out of pocket costs of registering them. Though there is no direct evidence in the facts of record here of the Respondent having such an intention, such an intention is self-evident in the companion case D2018-1340. In multiple instances in email correspondence that occurred there between the Respondent and the Complainant's solicitors, the Respondent, though without having put forth an express offer at a sum certain to sell the names, made sufficient intimations and solicitations, as thinly disguised as they were – if at all, to the Complainant for it to make such an offer to purchase the names or for it to ask the Respondent to propose such a price.

Both the five original disputed names in the companion case D2018-1340 and the twelve present disputed domain names here are highly similar to each other in that six of the latter, as do all of the former names, fully incorporate the Complainant's mark TRAVELEX as the complete second level domain, while each of the remaining six of the latter names is confusingly similar to that mark by virtue of a descriptive term having been added to the mark or slight modification having been made to that mark. As the Respondent's express intent, with respect to the original disputed names, was to sell them to the Complainant at a sufficient profit, the Panel infers that the Respondent harbored the very same intent with respect to all twelve of the present disputed domain names – as here, and in the companion case, no other party could legitimately use those names without potentially violating the Complainant's exclusive rights in its mark TRAVELEX. Given that cumulatively seventeen domain names are involved across both cases, the sheer number renders any other explanation of the Respondent's conduct inherently implausible.

The Panel, after considering the Respondent's conduct of record in its entirety, finds that, as discussed above, the overall current content of each of the Respondent's corresponding websites resolvable through a corresponding one of the twelve present disputed domain names is merely a pretext contrived to provide a superficial, though mistaken, veneer of legitimacy to disguise the Respondent's true goal of exploiting the present disputed domain names for its own pecuniary gain to the detriment of the Complainant – just as the Panel found with respect to the Respondent's websites in the companion D2018-01340 case.

The Respondent's inclusion of its disclaimer into an earlier version of all its websites but only after having received notice of this dispute from the Complainant's solicitors, not only is ineffective as occurring too late, but also is another indication of the Respondent's knowledge at the time and functions as an implicit admission thereof that he was well aware of the Complainant's mark TRAVELEX and the confusion he was then intentionally causing in an effort to commercially exploit the present disputed domain names for his own pecuniary gain at the expense of the Complainant.

Thus, the Respondent's conduct in registering and using the present disputed domain names violates paragraphs 4(b)(i) and 4(b)(iv) of the Policy.

Hence, the Panel concludes that the Complainant has provided sufficient evidence of its allegations, with respect to all the present disputed domain names to establish a case under paragraph 4(a) of the Policy upon which the relief it now seeks can be granted.

## **7. Decision**

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

Hence, the Panel now orders that all the present disputed domain names, specifically <travelex.blue>, <travelex.info>, <travelexlax.club>, <travelexlax.site>, <travelex.news>, <travelex.space>, <travelex.tech>, <travelexuk.club>, <travelexuk.network>, <travelex.world>, <travelx.cash>, and <travelx.press>, be transferred to the Complainant.

**Peter L. Michaelson**

Sole Panelist

Date: August 24, 2018