

## **ADMINISTRATIVE PANEL DECISION**

### **Nokia Corporation v. 黄登通 (Lee Charles)**

### **Case No. D2023-2763**

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

Complainant is Nokia Corporation, Finland, represented by SafeBrands, France.

Respondent is 黄登通 (Lee Charles), China.

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

The disputed domain name <nokia.online> (the “Domain Name”) is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

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

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 29, 2023. On June 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 1, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the detailed contact information of the Respondent. The Center sent an email communication to Complainant on July 3, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint in English on July 10, 2023.

On July 3, 2023, the Center transmitted an email communication to the Parties in Chinese and English regarding the language of the proceeding. On July 3, 2023, Complainant requested English to be the language of the proceeding. Respondent did not submit any 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 Respondent in English and Chinese of the Complaint, and the proceedings commenced on July 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 30, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 4, 2023.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on August 15, 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**

Complainant, a Finnish company, offers products and services in telecommunications, information technology, and consumer electronics. Its business spans across and over 130 countries, with an annual global revenue of EUR 22.2 billion in 2021.

Complainant owns numerous registered trademarks throughout the world with the NOKIA mark, either alone or in combination with another term, including:

- International trademark registration number 771539 for NOKIA (word mark), registered on February 15, 2001;
- European Union trademark number 000871194 for NOKIA (word mark), registered on March 24, 2000; and
- European Union trademark number 000340836 for NOKIA (word mark), registered on September 9, 1998.

In addition, NOKIA is the registered company name of Complainant. Complainant is also the owner of numerous domain names with the NOKIA mark, either alone or combination with another term. Complainant operates its business mainly on the domain name <nokia.com>, which was registered on July 11, 1991.

The Domain Name was registered on January 25, 2021. According to Complainant's evidence, the Domain Name previously reverted to the Dan.com site that offered the Domain Name for sale at USD 600. Complainant requested the Dan.com site to remove the disputed domain name from their site and the Dan.com site confirmed such removal in June 2023. Therefore, although the Domain Name still reverts to the Dan.com site, the site indicates that "This domain listing is deleted".

Prior to instituting the current UDRP proceeding, Complainant sent an email to Respondent on April 17, 2023 via the Registrar, explaining Complainant's trademark rights, and requesting Respondent to provide any details of his rights or legitimate interests to the NOKIA mark, in attempts to resolve this matter. Respondent did not respond.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, Complainant contends that (i) the Domain Name is identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations for NOKIA and that Respondent registered and is using the Domain Name with the intention to confuse Internet users looking for *bona fide* and well-known NOKIA products and services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use a domain name, which includes Complainant's trademark, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Rather, Complainant contends that Respondent has acted in bad faith in registering and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

### **6.1. Preliminary Issue: Language of the Proceeding**

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the 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.

Complainant submitted its original Complaint in English. In its Complaint, and its email dated July 3, 2023, and amended Complaint, Complainant submitted its request that the language of the proceeding should be English. According to the information received from the Registrar, the language of the Registration Agreement for the Domain Name is Chinese.

Complainant contends that the Domain Name is identical to its distinctive and well-known trademark, that the Domain Name is formed by Latin characters and not in Chinese script and not aimed specifically to Chinese people, that the Domain Name had been registered under the generic Top-Level Domain ("gTLD") ".online" (an English word) - thus indicating that Respondent appears to understand or is familiar with English. Complainant further asserts that Complainant's nationality and place of business is Finland, that the Domain Name reverts to a website in English, and that Respondent also chose the domain name marketplace Dan.com which is headquartered in the Netherlands (Kingdom of the), to offer the Domain Name for sale. Finally, Complainant asserts that holding the proceeding in Chinese would cause considerable extra expense and burden on Complainant.

In exercising its discretion to use a language other than that of the Registration Agreement for the Domain Name, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time, and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel also notes that the Domain Name does not have any specific meaning in the Chinese language, and that the Domain Name is identical to Complainant's NOKIA trademarks. The Panel further notes that the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondent in Chinese and English of the Complaint. Respondent chose not to comment on the language of the proceeding, nor did Respondent choose to file a Response in Chinese or English.

The Panel is also mindful of the need to ensure that the proceedings are conducted in a timely and cost-effective manner. Complainant may be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

## 6.2. Substantive Issues

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the 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) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the [WIPO Overview 3.0](#) states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. See, e.g., *The Knot, Inc. v. In Knot We Trust LTD*, WIPO Case No. [D2006-0340](#).

### 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 Complainant's trademark and the Domain Name. [WIPO Overview 3.0](#), section 1.7.

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence of its rights in the NOKIA trademarks, as noted above. Complainant has also submitted evidence which supports that the NOKIA trademarks are widely known and a source identifier of Complainant's products and services. Complainant has therefore proven that it has the requisite rights in the NOKIA trademarks. Based on the available records, the Panel finds Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

With Complainant's rights in the NOKIA trademarks established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the gTLD in which it is registered (in this case, ".online"), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#). The Panel finds the entirety of Complainant's mark NOKIA is reproduced within the Domain Name. Accordingly, the Domain Name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

### B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make out a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes out such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its NOKIA trademarks, and does not have any rights or legitimate interests in the Domain Name. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the

NOKIA trademarks or to seek registration of any domain name incorporating the trademarks. Respondent is also not known to be associated with the NOKIA trademarks, and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, before Complainant's removal request to the Dan.com site, it directed to the site offering the Domain Name for sale at USD 600. Such use does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#).

Accordingly, Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The Panel finds that Complainant has provided ample evidence to show that registration and use of the NOKIA trademarks long predate the registration of the Domain Name. Complainant is also well established and known. Indeed, the record shows that Complainant's NOKIA trademarks and related products and services are widely known and recognized. Therefore, Respondent was likely aware of the NOKIA trademarks when he registered the Domain Name or knew or should have known that the Domain Name was identical to Complainant's trademarks. See [WIPO Overview 3.0](#), section 3.2.2; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs*

*Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Name incorporating Complainant's NOKIA trademark in its entirety suggests Respondent's actual knowledge of Complainant's rights in the NOKIA trademarks at the time of registration of the Domain Name and his effort to opportunistically capitalize on the registration and use of the Domain Name.

Moreover, before Complainant's removal request to the Dan.com site, the Domain Name redirected to the site offering it for sale. Such use of the Domain Name demonstrates that Respondent has registered the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant or to a competitor of Complainant, for possible commercial gain.

Finally, the Panel also notes the reputation of the NOKIA trademarks, Respondent's history of engaging in a pattern of cybersquatting, and the failure of Respondent to submit a response to the Complaint.

Accordingly, the Panel finds that Respondent has registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of 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 Domain Name <nokia.online> be transferred to Complainant.

*/Kimberley Chen Nobles/*

**Kimberley Chen Nobles**

Sole Panelist

Date: August 24, 2023