

ADMINISTRATIVE PANEL DECISION

Nokia Corporation v. 钟奇 (Zhong Qi)

Case No. D2023-4805

1. The Parties

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

The Respondent is 钟奇 (Zhong Qi), China.

2. The Domain Name and Registrar

The disputed domain name <nokia.host> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 20, 2023. On November 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 22, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On November 22, 2023, the Center informed the parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On the same day, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in Chinese and English of the Complaint, and the proceedings commenced on December 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 9, 2024.

The Center appointed Joseph Simone as the sole panelist in this matter on January 16, 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, Nokia Corporation, is a Finnish multinational company specializing in telecommunications, information technology and consumer electronics. Following its establishment, the Complainant quickly emerged as a global technology leader across mobile, fixed and cloud networks, with sales in more than 130 countries. In 2022, the company achieved a global annual revenue of EUR 24.9 billion.

The Complainant has an extensive global portfolio of NOKIA trade marks, including the following:

- International Trade Mark Registration No. 771539 for NOKIA in Classes 1 to 42, registered on February 15, 2001, designating China, Switzerland, Japan, Singapore, etc.; and
- European Union Trade Mark Registration No. 000871194 for NOKIA in Classes 9, 11, 14, 16, 18, 24, 25, 28, 30, 34, 35, 37, 38, 41, and 42, registered on March 24, 2000.

The disputed domain name was registered on October 17, 2023.

The Complainant indicates that at the time of filing of the Complaint, the disputed domain name was inactive and resolved to an error page. At the time of issuance of this Decision, the disputed domain name continued to resolve to an error page.

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 asserts that it has prior rights in the NOKIA trade mark and that it has acquired a strong reputation in its fields of business.

The Complainant further also asserts that the disputed domain name registered by the Respondent is confusingly similar to the Complainant's NOKIA trade mark.

The Complainant also notes that it has not authorized the Respondent to use its NOKIA mark, and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services.

The Complainant also asserts that there is no evidence indicating any connection between the Respondent and the NOKIA mark in any way, and that there is no plausible good-faith reason for the Respondent to have registered the disputed domain name.

The Complainant therefore concludes that the registration and any use of the disputed domain name whatsoever was in bad faith.

B. Respondent

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

6. Discussion and Findings

Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including:

- The fact that the disputed domain name is identical to a distinctive and well-known Latin trade mark indicates that it could not have been aimed specifically at Chinese people;
- The registration of the disputed domain name under the English new generic Top-Level Domain (“gTLD”) “.host” suggests that the Respondent likely understands the English language or is at least familiar with it;
- The Complainant is domiciled in Finland;
- The Complainant is not in a position to conduct the proceedings in Chinese without a great deal of additional expense and delay due to the need for translation of the Complaint and the supporting Annexes; and
- Many UDRP decisions have recognized that using the language of the registration agreement would place an undue burden on the complainant.

The Respondent did not comment on the Complainant’s request for the language of the proceeding be English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel must 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 Respondent was notified in both Chinese and English of the language of the proceeding and the commencement of the proceeding and did not comment on the language of the proceeding.

Considering the circumstances of this case, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English, and as such, the Panel has issued this Decision in English. The Panel further finds that such determination should not create any prejudice to either Party and should ensure that the proceeding takes place with due expedition.

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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Disregarding the gTLD “.host”, the Complainant’s trade mark NOKIA is recognizable within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

As such, and based upon the available information, the Panel finds the first element of the Policy has been established.

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.

The disputed domain name does not resolve to an active website. Therefore, there is no evidence adduced to show that the Respondent, prior to the notice of the dispute, has used or has demonstrated its preparation to use the disputed domain name in connection with a bona fide offering of goods or services. There is also no evidence adduced to show that the Respondent has been commonly known by the disputed domain name or the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

As such, the Panel concludes that the Respondent has failed to rebut the Complainant’s prima facie showing of the Respondent’s lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Based on the available record, 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.

Paragraph 4(b) of the Policy states that any of the following circumstances in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its 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 the respondent’s website or location or of a product or service on its website or location.

For the reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

The Panel notes that at the time the Respondent registered the disputed domain name, the NOKIA trade marks were already widely known and directly associated with the Complainant's activities. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The Respondent has provided no evidence to justify his choice of the term "nokia" in the disputed domain name.

In light of the foregoing, it would be unreasonable to conclude that, at the time of the registration of the disputed domain name, the Respondent was unaware of the Complainant's trade mark.

The Complainant's registered trade mark rights in NOKIA for its products and services predate the registration date of the disputed domain name. A simple online search (such as via Baidu, Bing, etc.) for the term "nokia" would have revealed that it is a renowned brand in its industry.

The Panel is therefore of the view that the Respondent registered the disputed domain name with full knowledge of the Complainant's trade mark rights.

In light of the foregoing facts, there is no plausible good-faith reason for the Respondent to have registered the disputed domain name.

While the disputed domain name does not resolve to an active website, having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trade mark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, 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 <nokia.host> be transferred to the Complainant.

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: January 30, 2024