



(Hong Kong Office)

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HK-2401922
<b>Complainant:</b>	Nio Holding Co., Ltd
<b>Respondent:</b>	Redacted for Privacy/ NameBrightPrivacy.com
<b>Disputed Domain Name:</b>	<nioauto.com>

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**1. The Parties and Contested Domain Name**

The Complainant is Nio Holding Co., Ltd., China.

The Respondent is Redacted for Privacy/ NameBrightPrivacy.com, United States.

The Domain Name at issue is <nioauto.com>, registered by the Respondent with TurnCommerce, Inc. DBA NameBright.com., United States.

**2. Procedural History**

The Complaint was received by the ADNDRC (Hong Kong Office) electronically on September 10, 2024, followed shortly thereafter by the case filing fee. On September 14, 2024, by e-mail to the ADNDRC, the Registrar confirmed that the Domain Name is registered with the Registrar and that the Respondent is the current registrant of the Domain Name. The Registrar verified that the Respondent is bound by the Registrar's (English language) registration agreement and has thereby agreed to resolve domain disputes brought by third parties in accordance with ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy" or the "UDRP").

On September 16, 2024, the ADNDRC notified the Complainant of deficiencies in the Complaint and that day the Complainant filed an administratively compliant Amended Complaint.

On September 17, 2024, the ADNDRC served via e-mail to the Respondent and to postmaster@nioauto.com a Written Notice of the Complaint, together with the Amended Complaint and all Annexes, setting a deadline of October 7, 2024 by which the Respondent could file a Response to the Complaint.

The Respondent failed to submit any Response. On October 8, 2024, the ADNDRC notified the parties of the Respondent's default and, pursuant to the Complainant's request

to have the dispute decided by a single-member Panel, appointed Alan L. Limbury as Panelist.

### 3. Factual background

Since 2016 the Complainant, Nio Holding Co., Ltd and its associated companies have designed, manufactured and sold smart and connected premium electric vehicles under the NIO mark, registered in many countries, including in China, (e.g. Reg. No. 19909121A, registered on July 28, 2017) and the United States (e.g., USPTO Reg. No. 87984148, registered on March 28, 2023, upon application made on May 5, 2016). The Complainant operates the website at “www.nio.com”.

As reported by forbes.com and The Buzz, the NIO brand was unveiled with much publicity in London on November 21, 2016, when it launched “the fastest electric car in the world”.

The disputed Domain Name <nioauto.com> was registered on September 29, 2017. It resolves to a HugeDomains website where it is offered for sale for \$11,795.

### 4. Parties’ Contentions

#### A. Complainant

The Complainant’s contentions may be summarized as follows:

- i. The Domain Name is almost identical or confusingly similar to the registered trademarks of the Complainant.
- ii. The Respondent has no rights or legitimate interests in respect of the Domain Name. Specifically, the Respondent is not using and has not demonstrated an intent to use the Domain Name or names corresponding to the Domain Name in connection with a *bona fide* offering of goods or services in the course of trade; has not been commonly known by the Domain Name; and is not making a legitimate noncommercial or fair use of the Domain Name without intent to misleadingly divert consumers or to tarnish the Complainant’s marks for commercial gain.
- iii. The Domain Name has been registered and is being used in bad faith. By choosing <nioauto.com> as the Domain Name, the Respondent must be well aware or should have already known that “NIO” is a brand producing automobile. There are massive trademark applications and news reports about the business of the Complainant well before 2017-09-29, the date of registration of the Domain Name, which redirects to a HugeDomains website where it is listed for sale at \$11,795.
- iv. The Complainant requests that the Domain Name be transferred to the Complainant.

#### B. Respondent

The Respondent failed to submit any Response.

### 5. Findings

The Complainant has established all the elements entitling it to relief.

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. the Respondent's Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- iii. the Respondent's Domain Name has been registered and is being used in bad faith.

#### **A) Identical / 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 trademark and the Domain Name. *WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition* ("WIPO Overview 3.0"), section 1.7.

The Panel finds the Respondent's <**nioauto.com**> Domain Name to be confusingly similar to the Complainant's registered NIO mark, differing only by the addition of the "auto" abbreviation for automobile, which does nothing to distinguish the Domain Name from the mark. The inconsequential ".com" generic top-level domain ("gTLD") may be ignored. See, for example, *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. D2000-0429.

The Complainant has established this element.

#### **B) Rights and Legitimate Interests**

Paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate rights to or legitimate interests in the Domain Name for purposes of paragraph 4(a)(ii) of the Policy, i.e.

- (i) before any notice to the Respondent of the dispute, the use by the Respondent of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the Domain Name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The <**nioauto.com**> Domain Name was registered on September 29, 2017, several months after the Complainant has shown that the launch of its NIO brand had received widespread publicity; shortly after the NIO mark was registered in China; and more than a year after the filing in the United States of one of the Complainant's applications to register the NIO mark. The Domain Name resolves to a website where it is offered for sale for \$11,795.

These circumstances, together with the Complainant's assertions, are sufficient to constitute a *prima facie* showing of absence of rights or legitimate interests in respect of the Domain Name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the <nioauto.com> Domain Name. See *JUUL Labs, Inc. v. Dryx Emerson / KMF Events LTD*, FA1906001849706 (FORUM July 17, 2019). The Respondent has made no attempt to do so.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name.

The Complainant has established this element.

### **C) Bad Faith**

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which, though not exclusive, shall be evidence of the registration and use of the Domain Name in bad faith for purposes of paragraph 4(a)(iii) of the Policy, including:

- (i) circumstances indicating that Respondent has registered or acquired the Domain Name primarily for the purpose of selling, renting or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of Complainant, for valuable consideration in excess of Respondent's documented out-of-pocket costs directly related to the Domain Name.

Having regard to the composition of the <nioauto.com> Domain Name, which adds the abbreviation "auto" to the NIO mark, and the timing of the registration of the Domain Name, shortly after the publicity given to the launch of the NIO brand in connection with "the fastest electric car in the world", Panel finds that the Respondent was aware of the Complainant's actual or nascent trademark rights when registering the Domain Name (see *WIPO Jurisprudential Overview 3.0* section 3.8.2) and did so in bad faith primarily for the purpose of selling the Domain Name registration to the Complainant for more than the Respondent's costs directly related to the Domain Name.

This constitutes registration and use in bad faith under Policy ¶ 4(b)(i).

The Complainant has established this element.

## **6. Decision**

The Complainant having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the <nioauto.com> Domain Name be **TRANSFERRED** from the Respondent to the Complainant.

*Alan L. Limbury*

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Alan L. Limbury  
Panelist

Dated: October 11, 2024.