



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK - 2401939
Complainant:	Nio Holding Co., Ltd.
Respondent:	Thanh Le Xuan
Disputed Domain Name(s):	< inc-nio.com >

1. The Parties and Contested Domain Name

The Complainant is **Nio Holding Co., Ltd.**, of Susong Road West, Shenzhen Road North, Economic and Technological Development Zone, Hefei City, Anhui Province, China.

The Respondent is **Thanh Le Xuan**, of Phu Thinh Son Tay, Hanoi 100000

The domain name at issue is **inc-nio.com**, registered by Respondent with NAMECHEAP, INC, at abuse@namecheap.com; tel: +19584014545

2. Procedural History

The Complaint was received by the Asian Domain Name Dispute Resolution Centre (ADNDRC) (Hong Kong Office) on 29th October 2024. The Complainant has elected to have the Complaint decided by one Panelist

The Complaint was sent by the ADNDRC to the Respondent and the deadline for the Respondent to submit a Response to the Complaint was 21 November 202. No Response was received from the Respondent by the deadline.

This dispute is governed by the Uniform Policy for Domain Name Dispute Resolution (“the ICAANN Policy”), the Rules for Uniform Domain Name Dispute Resolution Policy (“the ICANN Rules”) and the ADNRC Supplemental Rules

3. Factual Background

The Complainant, Nio Holding Co., Ltd and its associated companies (“NIO”) is a pioneer in China’s premium electric vehicle market. NIO design, jointly manufacture, and sell smart and connected premium electric vehicles, driving innovations in next generation technologies in connectivity, autonomous driving and artificial intelligence.

Redefining user experience, NIO provide users with comprehensive, convenient and innovative charging solutions and other user-centric service offerings. NIO’s Chinese name, Weilai, which means Blue Sky Coming, reflects its vision and commitment to a more environmentally friendly future.

The first model NIO developed was the EP9 supercar, introduced in 2016. Combined with an attractive design and strong driving performance, the EP9 delivers extraordinary acceleration and best-in-class electric powertrain technology, helping position NIO as a premium brand.

NIO launched its first volume manufactured electric vehicle, the ES8, to the public at the NIO Day event on December 16, 2017 and began making deliveries from June 28, 2018 and have been in business then.

NIO sells the vehicles through its own NIO House and NIO Space and mobile applications. NIO Houses are not only the showrooms for the vehicles, but also clubhouses for the users with multiple social functions. NIO’s mobile application fosters a dynamic and interactive online platform. NIO believe the online and offline integrated community will retain user

engagement and cultivate loyalty to the brand, along with other successful branding activities such as the annual NIO Day and the championship winning Formula E team.

Through extensive use, marketing and promotion of NIO’s trademarks, NIO’s trademark is well-known all over the world, and has a material business value. NIO has registered its trademarks all over the world and is the owner of the domain name <nio.com>. Especially, NIO has applied-for/ registered the NIO trademarks (and service marks) in many countries around the world including China, Hong Kong, Taiwan and the USA. A partial list of the Complainant’s trademarks registered in China are set out below:¹

Mark	Class	Country	Date	Reg. No.
NIO	37	China	10/5/2016	19909121
NIO	37	China	10/5/2016	19909121A
NIO	1	China	12/6/2016	20259651
NIO	2	China	12/6/2016	20259650
NIO	3	China	12/6/2016	20259649
NIO	4	China	12/6/2016	20259648
NIO	6	China	12/6/2016	20259647
NIO	7	China	12/6/2016	20259646
NIO	7	China	12/6/2016	20259646A
NIO	9	China	12/6/2016	20259645A
NIO	9	China	12/6/2016	20259541A
NIO	11	China	12/6/2016	20259644
NIO	12	China	12/6/2016	20259542A
NIO	12	China	12/6/2016	20259542
NIO	17	China	12/6/2016	20259643
NIO	20	China	12/6/2016	20259642
NIO	21	China	12/6/2016	20259641
NIO	22	China	12/6/2016	20259640
NIO	25	China	12/6/2016	20259639
NIO	26	China	12/6/2016	20259638
NIO	27	China	12/6/2016	20259637
NIO	28	China	12/6/2016	20259636
NIO	35	China	12/6/2016	20259635
NIO	36	China	12/6/2016	20259634
NIO	37	China	12/6/2016	20259543

¹ A full listing of the Complainant’s trademarks can be found in the Complaint.

Mark	Class	Country	Date	Reg. No.
NIO	37	China	12/6/2016	20259543A
NIO	38	China	12/6/2016	20259633
NIO	39	China	12/6/2016	20259632

The Respondent is the current registrant of the Disputed Domain Name. As the Respondent did not file a Response to the Complaint, no further information on the Respondent is available.

4. Parties' Contentions

A. The Complainant's contentions may be summarized as follows:

- i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

The Disputed Domain Name is <inc-nio.com>, which “.com” is a top-level domain and should not form the assessment of confusing similarity. The most distinctive domain “inc-nio” is clearly a coined word with the words: “inc” and “nio” connected by a “-“ symbol. The second word “nio” contains merely the distinctive “nio” trademark which is well recognized among the public for the automobile brand NIO. The first word “inc” is a common dictionary word, which is commonly known as an abbreviation of the word “incorporated” in English. The word “inc” does not create any distinctiveness by adding it to the second word “nio”. The word “inc” describes the word “nio” or alternatively it is a prefix which describes nature of the product/service offered by NIO. The fact that adding a prefix “inc” to the word “nio” even makes the Disputed Domain Name more confusingly similar to NIO's trademark.

Google search results of “inc nio” would show results exclusively related to the business of the Complainant.²

² See Annexure 3 of the Complaint – Printout of first page of Google search results of “inc nio”.

As such, the Disputed Domain Name is almost identical or confusingly similar to the registered trademarks (and/or service marks) of the Complainant.

- (ii) The Respondent has no rights or legitimate interests in the respect of the domain names(s):

The Complainant claims that the Disputed Domain Name is the tradename and trademark of the Complainant. The Respondent is not entitled to or otherwise authorized or licensed by the Complainant in whatsoever means to use the Complainant's Trademark on any goods or services.

The Complainant claims the Respondent will not be able to demonstrate that his conduct satisfies any of the conditions in paragraph 4(c) of the Policy.

The front page of www.inc-nio.com appears to be a website promoting NIO electric vehicles. However, this page is just a scam to lead users to trade in cryptocurrencies instead of electric vehicles.³ The Complainant further alleges this is not "fair-use" of the disputed domain name.

As such, the Complainant alleges that the Respondent has no rights or legitimate interests in the domain name in dispute.

- (iii) The Disputed Domain Name has been registered and is being used in bad faith.

The Complainant alleges the Respondent, an individual, has deliberately registered the Disputed Domain Name which is confusingly similar to the Complainant's famous trademark "NIO", with an intention of causing confusion to the public that the Respondent and/or the Respondent's website is related to or authorized by the Complainant and/or the Complainant's website and diverting the traffic of the web-users.

By choosing "inc-nio.com" as the domain name and website layout almost identical to that of the Complainant's, the Respondent must be well aware or

³ See Annexure 4 of the Complaint – print-out of www.inc-nio.com and powerpoint presentation WHITEPAPER

should have already known that “NIO” is a brand very well. There are massive trademark applications and news reports about the business of the Complainant well before 11 January 2024, the date of registration of the Disputed Domain Name.

The Complainant claims the Respondent has copied the trademarks and logos of the Complainant as well as webpage design in its website. This is not a mere coincident but a well calculated plan to promote the Respondent’s products/services through this website. At the top bar tools of the Respondent’s website, it allows users to download “WHITEPAPER”. The “WHITEPAPER” contains a PowerPoint presentation to potential investors but the products/services (ie trading of electronic shares of NIO through or on cryptocurrency platform) offered in the WHITEPAPER are not related to the Complainant or authorized by the Complainant.

The Respondent’s website also provides deeplinks to trading of NIO and BCD tokens, which is not authorized by the Complainant. Further, the Stock Information posts incorrect live stock price.

As such, the Respondent has registered and is operating the Disputed Domain Name in bad faith by putting up an identical-looking website to introduce the trading of tokens/cryptocurrency which is unlawful at the place of business of the Complainant.

B. Response to the Complaint

There was no Response filed by the Respondent.

5. Findings

Notwithstanding that no Response to the Complaint was received, the Complainant is still required to satisfy the conditions set out under the ICANN Policy and Rules in order to prevail in its Complaint.

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. Respondent's 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. Respondent's domain name has been registered and is being used in bad faith.

In determining whether Paragraph 4(a)(iii) has been satisfied, the evidence should satisfy any one limb of Paragraph 4(b).

The Panel's findings are as follows:

A) Identical / Confusingly Similar

The Complainant is the registered proprietor of the NIO trademark in a number of countries around the world as set out above.

The Disputed Domain Name comprises the word NIO which is the Complainant's corporate name and trademark and the prefix "inc". The word "inc" is an abbreviation for the word "incorporation" and is generic in nature. Disregarding the TLD as well as any generic or geographic term, the Disputed Domain Name is identical to the Complainant's trademark.⁴

The Panel also accepts the Complainant's contention that the Disputed Domain Name is identical or confusingly similar to the registered trademarks (and/or service marks) of the Complainant. As such paragraph 4(a)(i) of the ICANN Policy is satisfied.

⁴ *WIPO Jurisprudential Overview 3.0* at 1.8 "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element

B) Rights and Legitimate Interests

The Panel agrees with the Complainant's argument that by choosing "inc-nio.com" as the domain name and website layout almost identical to that of the Complainant's, the Respondent must be well aware or should have already known that "NIO" is a brand very well. There were massive trademark applications and news reports about the business of the Complainant well before 11 January 2024, the date of registration of the Disputed Domain Name.

The Panel accepts the Complainant's allegation that the Respondent's copying of the trademarks and logos of the Complainant as well as webpage design in its website is not a mere coincident but a well calculated plan to promote the Respondent's products/services through this website. The "WHITEPAPER" found on the Respondent's website contains a PowerPoint presentation to potential investors for the products/services (ie trading of electronic shares of NIO through or on cryptocurrency platform) which are not related to the Complainant nor authorized by the Complainant.

The Panel therefore accepts the Complainant's contention that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.⁵ Paragraph 4(a)(ii) of the ICANN Policy is satisfied.

C) Bad Faith

The Complainant, Nio Holding Co., Ltd and its associated companies ("NIO") is a pioneer in China's premium electric vehicle market. NIO design, jointly manufacture, and sell smart and connected premium electric vehicles, driving innovations in next generation technologies in connectivity, autonomous driving and artificial intelligence.

⁵In the absence of any license or permission from the Complainant to use its trademark, no actual or contemplated bona fide or legitimate use of the Disputed Domain Name could reasonably be claimed." See *Sportswear Company S.P.A. v. Tang Hong*, D2014-1875 (WIPO Dec. 10, 2014).

NIO launched its first volume manufactured electric vehicle, the ES8, to the public at the NIO Day event on December 16, 2017 and began making deliveries from June 28, 2018 and have been in business then.

Through extensive use, marketing and promotion of NIO's trademarks, NIO's trademark is well-known all over the world, and has a material business value. NIO has registered its trademarks all over the world and is the owner of the domain name <nio.com>. Especially, NIO has applied-for/ registered the NIO trademarks (and service marks) in many countries around the world.

The Panel agrees with the Complainant that by choosing "inc-nio.com") as the domain name and website layout almost identical to that of the Complainant, Respondent must be well aware or should have already known that "NIO" is a very well-known brand.

The Panel notes that the Respondent's website also provides deeplinks to trading of NIO and BCD tokens, which is not authorized by the Complainant. Further, the Stock Information posts incorrect live stock price.

The use of the website site to divert users to a non-authorized activity, ie trading of electronic shares of NIO through or on cryptocurrency platform not related to or authorized by the Complainant and for other commercial gain, would cause confusion with the Complainant's customers and also affect the Complainant's relationship with such customers. Such conduct amounts to bad faith on the part of the Respondent.⁶

The Penal notes that the Respondent has failed to file a Response to the Complaint which suggests that the Respondent has no legitimate rights in, or is interested in protecting the Disputed Domain Name.

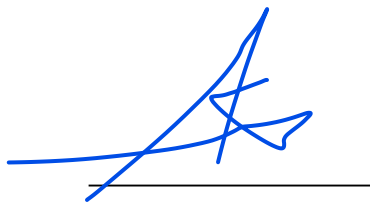
⁶ *Philipp Plein v. Domain Admin, Whois Privacy Corp.*, D2016-1519 (WIPO Sept. 12, 2016) (Respondent acted in bad faith by registering the disputed domain name to disrupt the Complainant's relationship with their customers or potential customers and/or to attempt to attract Internet users for commercial gain. Respondent purported to sell Philipp Plein products, without Complainant's authorization, from the website to which the disputed domain name resolves.).

Accordingly, the Panel finds that, based on paragraph 4(b)(iii) and (iv) of the ICANN Policy, the registration of the Disputed Domain Name was registered and is being used in bad faith. As such paragraph 4 (a)(iii) of the ICAAN Policy is satisfied.

6. Decision

In order to direct the transfer of the domain name, all three elements of Paragraph 4(a) of the Policy must be established by the Complainant. Based on the Policy, the Complaint and the above analysis, this Panel finds all 3 elements in Paragraph 4(a) have been met. As such, the registration of the Disputed Domain Name was in bad faith.

The Panel therefore directs that the Disputed Domain Name be transferred from the Respondent to the Complainant.



Alban Kang

Sole Panelist

10 Dec 2024