

DECISION OF THE THIRD-PARTY DECIDER

Complainant / Domain name holder

Case no. 44495 / geforce.be

1. The Parties

1.1. Complainant:

NVIDIA Corporation
2788 San Tomas Expressway, Santa Clara, California, 95051, United States

Represented by:

Safenames Ltd.
Safenames House, Sunrise Parkway, Linford Wood, Milton Keynes, MK14 6LS

1.2. Domain name holder:

Ye Li
Tianmushan Road 2000, 310020 Hangzhou, Zhejiang, China

Represented by:

None

2. Domain name

Domain name: geforce.be
Registered on: 27th April 2019

Hereafter referred to as "the domain name".

3. Procedure

A Complaint, dated March, 25th, 2020 was filed.

No response received.

Appointment of third-party decider on April, 30th, 2020.

No other procedure relating to the Domain Name (to the best knowledge of the Third-party decider).

4. Factual Background information

The Complainant, NVIDIA Corporation, is a United States company founded in 1993, renowned notably for its graphics processing units (GPUs) and mobile processor chipsets.

NVIDIA Corporation operates the "GEFORCE" brand of GPUs, which have had sixteen iterations since the brand's initial launch in 1999. As part of its efforts to protect its Intellectual Property, the Complainant owns trademarks for the "GEFORCE" term within numerous jurisdictions including, not limited to the following :

GEFORCE	European Union	reg. n° 002778140 (2006)
GEFORCE	European Union	reg n° 006193064 (2008)

The Complainant also uses its trademark, "GEFORCE", as part of its brand logo to distinguish its goods and services from its competitors. The Complainant's logo is extensively used on the company's products, as well as for marketing purposes.



5. Position of the parties

5.1. Position of the Complainant

The Complainant contends that:

- The Domain Name is identical or confusingly similar to its trademarks;
- The Respondent has no right or legitimate interests in the Domain Name;
- The Domain Name has been registered or is being used in bad faith;
- The Respondent has registered geforce.be in order to operate a PPC page (PPC stands for pay Per Click) which redirect the user to third-party websites. The Respondent has replicated, in the Disputed Domain Name, the distinctive and renowned "GEFORCE" trademark to commercially gain through users clicking on the PPC links, many of which relate to the "GEFORCE" brand.

- The Disputed Domain Name is advertised for sale.
- The Respondent has chosen to ignore a Cease and Desist letter sent by the Complainant's Representative on the 30th October 2019 through the online form available on the Registry's website.
- The Respondent has an extensive history of bad faith domain name registrations targeting trademarks. For example : caixabank.com.cn ; cartier.tw ; flickr.jp ; etc. Various decisions have been issued in relation with the Respondent.

5.2. Position of the Domain name holder

No response provided.

6. **Discussion and findings**

Pursuant to Article 16.1 of the *CEPANI rules for domain name dispute resolution*, the Third-Party Decider shall rule on domain name disputes with due regard for the Policy and the CEPANI rules for domain name dispute resolution.

Pursuant to Article 10b (1) of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, the Complainant must provide evidence of the following:

- *"the Domain name holder is identical or confusingly similar to a trademark, a tradename, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights; and*
- *the Domain name holder has no rights or legitimate interests in the domain name; and*
- *the Domain name holder's domain name has been registered or is being used in bad faith."*

6.1. The Domain Name is identical or confusingly similar to trademarks in which the Complainant has rights

It is commonly accepted that the first condition 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 disputed domain name.

This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

If this comparison, the cc- or g- TLD is usually not taken into account.

The Domain Name includes entirely the Complainant's trademark.

The first condition is satisfied.

6.2. The Domain name holder has no right or legitimate interests in the Domain Name

Panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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.

Complainants claims, without being contradicted, that:

- the Respondent has not registered trademarks for the term "GEFORCE";
- there is no evidence that Respondent holds any unregistered rights to the term "GEFORCE";
- the Respondent has not received any license from the Complainant to use a domain name which features the "GEFORCE" trademark;
- all active trademarks for the term "GEFORCE" are held by the Complainant.

In addition, Panels underlines that should Respondent claim an interest, such interest must also be legitimate. Prima facie, this is not the case in a situation where the website works as a PPC page which redirect the user to third-party websites by using links that (at least for some of them) relate to the Complainant's brand.

The Respondent has chosen not to answer to the Complaint.

Based on the elements presented by Complainant, the Panels finds that the second condition is satisfied.

6.3. The Domain name holder's Domain Name has been registered or is being used in bad faith

The notion of bad faith may be deduced from a set of circumstances on the basis of which one can conclude that the domain name holder was aware, or should have been aware, that by registering or using the domain name, it was perpetrating misconduct, violating a law or infringing rights.

In this case, the Panels notes that:

- It is very unlikely that the Respondent was not unaware of the existence of the Complainant when registering the Domain Name;
- The Disputed Domain Name is (or was) advertised for sale.
- the Respondent's subsequent use of the Disputed Domain Name shows that it is aware of the Complainant's trademark (the PPC links hosted on the Disputed Domain Name thematically relate to the goods and services offered under the Complainant and some links directly refer to the Complainant);
- The Respondent has chosen to ignore a Cease and Desist letter sent by the Complainant's Representative on the 30th October 2019 through the online form available on the Registry's website.

The Panel concludes that the above is evidence that the Respondent has engaged in a pattern of bad faith conduct.

The third condition is satisfied.

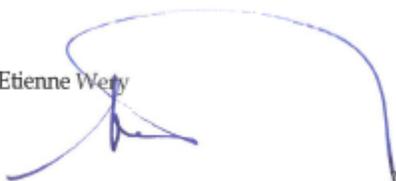
7. Decision

Consequently, pursuant to Article 10(e) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE*, the Third-Party Decider hereby rules that the domain name registration for the "**geforce.be**" domain name :

is to be transferred to the complainant.

Brussels, May, 20th, 2020.

Etienne Wery



Etienne WERY
The Third-party Decider