1. Procedural History

On 24 July 2014, the Complainant, NVIDIA Corporation, submitted its complaint in English to the Hong Kong International Arbitration Centre (the “HKIAC” or the “Centre”), in accordance with the CNNIC Domain Name Dispute Resolution Policy (the “CNDRP”), the CNNIC Domain Name Dispute Resolution Policy Rules (the “Rules”) and the HKIAC Supplemental Rules to CNNIC Domain Name Dispute Resolution Policy (“the Supplemental Rules”), against the domain name <geforce.com.cn> (“the Disputed Domain Name”) registered by the Respondent 鹿延 (“the Respondent”). The Complainant elected this case to be dealt with by a one-person panel.

On 25 July 2014, the Centre sent to the Complainant by email an acknowledgement of the receipt of the complaint. On 25 July 2014, the Centre sent to the registrar 北京众鑫乾坤网络科技公司 (“the Registrar”) an email requesting verification of registration information, copying the same to the CNNIC. On 4 August 2014, the Centre received verification of registration information from the Registrar, confirming the respondent as the registrant individual/unit of the Disputed Domain Name with English name as “LUYAN”.

In response to the request for use of English as the language of the administration proceedings, the Centre on 5 August 2014 sent out an email stating that, since according to Article 6 of the Policy, the language of the proceedings was to be Chinese, unless otherwise agreed or determined by the Panel, the request to use English would be transferred to the Respondent and left to be decided by the Panel. On 6 August 2014, the Centre sent to the Respondent, in Chinese and English, the notice about the commencement of the proceedings and passed on the documents submitted by the Complainant, informing the Respondent the deadline for submitting the Response. On the same day, the Centre, by email in Chinese and English, passed on to the Respondent the Complainant’s request for using English as the language of the proceedings and invited the Respondent to put forward its comments for the consideration of the Panel.
The Respondent did not submit a Response or put forward any comments before the deadline.

On 27 August 2014, the Centre asked the panelist candidate Mr. Gary Soo (苏国良) to confirm availability for accepting the appointment and independence and fairness in dealing with this case between the parties. Upon receipt of confirmation, the Centre notified the parties the appointment of Mr. Gary Soo as the Sole Panelist in the case, that the language of proceedings was Chinese and English, and that the deadline for decision to be on or before 10 September 2014.

2. **Factual background**

The Complainant of this case is NVIDIA Corporation, with location at Santa Clara, CA 95050, United States and set up in 1993. The Complainant is an internationally well-known American multinational corporation and is particularly known for its graphic processing units (GPUs) and mobile processors chipsets.

In 1999, the Complainant was listed on the NASDAQ stock exchange. Since 1999, the Complainant has been developing graphic processing units and has shipped more than 1 billion GPUs. The Complainant has thereafter expanded its business into various other products brands. This “GEFORCE” in this dispute is one of its graphic processing units products. In fiscal 2014, the Complainant’s revenue is forecasted to reach US$4.2 billion; in fiscal 2013, the Complainant generated revenue of US$4.3 billion. The Complainant named one of its popular display cards as “GEFORCE”. Originating from a contest held by the Complainant in April 1999, with over 12,000 entries received from the public, this name was chosen with the first GPU “Geforce 256” being introduced later that year. Since its inception, the Complainant has gone on to produce high performing graphic chips under the brand “GEFORCE” with a series of GPUs. The Complainant has since early times registered and used concerned trademarks, including “GEFORCE”, “GEFORCE 256”, “GEFORCE GTS” and related “JI SHI” (traditional, simplified Chinese of “GEFORCE”).

The Complainant’s representative in the proceedings is Micah Ogilvie and its address is Sunrise Parkway, Linford Wood, Milton Keynes, MK14 6LS, UK.

The Respondent registered the Dispute Domain Name.

The Registrar of the Dispute Domain Name in this case is 北京众鑫乾坤网络科技公司.

3. **Parties’ Contentions**

A. **Complainant**

The Complainant submits that the Disputed Domain Name is identical with or confusingly similar to the Complainant's name or mark in which the Complainant has civil rights or interests.
As per the above, the Complainant submits that the Complainant has for years had civil rights over the “GEFORCE” registered trademarks and concerned marks and, since 1999, the Complainant’s business of GPUs, including those of “GEFORCE” brand was across the globe. In relation to its business and trademark registration, the Complainant submits various documents. The Complainant has noted that Article 5 of the Law of the People’s Republic of China against Unfair Competition prohibits business operators from faking the registered trademarks of others.

In addition, the Complainant quotes various cases to submit that the Disputed Domain Name <geforce.com.cn> and the Complainant’s “GEFORCE” trademarks is the same and the “.com.cn” TLDs are not enough to make the Disputed Domain Name different or not with being confusingly similarity to its trademarks.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the Dispute Domain Name. The Complainant considers that its “GEFORCE” trademarks do not have general cultural or literal meaning. The Complainant also states that the Complainant has never authorized the Respondent to use the trademarks, that there is no relationship between the Complainant and the Respondent, and that the Respondent has no rights over “GEFORCE”.

The Complainant also points out that the name of the Respondent is “鹿廷” and the Respondent does not have any registered entities or trademarks related to “GEFORCE”.

The Complainant considers that the registration of the Disputed Domain Name was with bad faith for, inter alia, the following reasons:

(a) The Complainant has since 2005 developed its businesses and cooperation in China. The Respondent was in the knowledge of the Complainant’s “GEFORCE” famous trademarks, marks or brand in Mainland China, when registering the Disputed Domain Name.

(b) The Respondent’s email [19251688@qq.com] is evidently associated with over 1,200+ domain names which further demonstrates that he is a sophisticated user of the internet. The Respondent is also involved in the sales of domain names.

(c) The official domain name of the Complainant is <ww.GeForce.cn>. The Respondent’s behaviour causes confusion in various ways to other internet users. The Respondent has no legitimate rights or interests over the Disputed Domain Names and its registration of the Disputed Domain Name infringed the business, trademarks and rights of the Complainant.

For the above reasons, the Complainant asked for the decision of the Panel to have the Disputed Domain Name transferred to the Complainant.

B. Respondent

The Respondent did not submit its response.

4. Findings
In accordance with the CNDRP, the Rules and the Supplemental Rules, the Panel proceeds to deal with the case of Disputed Domain Name.

Language of Proceedings

In relation to the language of the proceedings, Article 6 of the CNDRP provides that the language of the proceedings shall be Chinese, unless otherwise agreed by the parties or determined by the Panel. The Complainant requests to use English as the language of the proceedings and submits various reasons and cases in support. These include the features for speedy, efficient and low-cost proceedings called for by the CNDRP; the registration of various domain names (including the Disputed Domain Name) in English; and the use of English would not prejudice the rights of the Respondent who can raise objection if otherwise.

Accordingly, the Panel decides that the language of these administrative proceedings is English but the Panel shall attach a Chinese translation of the decision as appendix. In case discrepancies exist, the English decision shall be final.

Decision and Discussion

As to the case, Article 8 of CNDRP provides that a complaint against a registered domain name shall be supported if the following conditions are all fulfilled:

i. The disputed domain name is identical with or confusingly similar to the Complainant's name or mark in which the Complainant has civil rights or interests;
ii. The disputed domain name holder has no right or legitimate interest in respect of the domain name or major part of the domain name;
iii. The disputed domain name holder has registered or been using the domain name in bad faith.

Article 9 of the CNDRP provides that the conduct of the holder of the Disputed Domain Name may be found to be with bad faith in case of any of the following circumstances:

i. The purpose for registering or acquiring the domain name is to sell, rent or otherwise transfer the domain name registration to the complainant who is the owner of the name or mark or to a competitor of that complainant, and to obtain unjustified benefits;
ii. The disputed domain name holder, on many occasions, registers domain names in order to prevent owners of the names or marks from reflecting the names or the marks in corresponding domain names;
iii. The disputed domain name holder has registered or acquired the domain name for the purpose of damaging the Complainant's reputation,
disrupting the Complainant's normal business or creating confusion with
the Complainant’s name or mark so as to mislead the public;
iv. Other circumstances which may prove the bad faith.

Article 7 of the CNDRP provides that the Complainant and the Respondent shall bear the
burden of proof for their own claims.

Article 34 of the Rules provides that, in the event that a party, in the absence of exceptional
circumstances, does not comply with any of the provisions established by these Rules or any
of the time periods fixed by the Panel, the Panel shall proceed to a decision on the
complaint. Article 35 of the Rules provides that, if a party, in the absence of exceptional
circumstances, does not comply with any provisions of these Rules or any request from the
Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

Based on the complaint and the evidence materials, the Panel proceeds with the decision of
of this case. The Panel of this case considers that:

(1) Regarding Disputed Domain Name being Identical or Confusing Similarly to
name or mark in which the Complainant has civil rights or interests

In the attachments to the complaint, the Complainant submits documentary details
regarding itself, and its products, brand name and business and trademark registration in
Mainland China. From these submitted documents, it can be seen that the Complainant
has registered and used the “GEFORCE” trademarks, marks and brand for years. To
these submissions, the Respondent has not indicated objection or submitted contrary
evidence.

The Panel accepts the above as facts. The Panel also notices that the Respondent
registered the Disputed Domain Name for a couple of years and, from the documents from
the Complainant, the Panel considers that, before the Respondent registered the Disputed
Domain Name, the Complainant has put the “GEFORCE” names/marks to use in its
products, brand and businesses in China. Accordingly, the Panel finds that the
Complainant has the required civil rights under Article 8(i) of the CNDRP as regards the
“GEFORCE” names/marks.

In the Disputed Domain Name, “.cn” represents the ccTLD for China; and “.com”
represents the second level gTLD for corporation. In taking out “.com.cn” from the
Disputed Domain Name, the remaining part “geforce” is identical or confusingly similar to
“GEFORCE” names or marks of the Complainant. Based on this, the Panel considers
that the “geforce” part and the “GEFORCE” names/marks in which the Complainant has
civil rights is identical or confusingly similar.

According to the finding of civil rights regarding the Complainant’s “GEFORCE” names or
marks, the Panel accepts that the complaint of the Complainant has satisfied Article 8(i) of
the CNDRP, that is to say the Disputed Domain Name and the names or marks in which the Complainant has rights is identical or confusingly similar.

(2) Regarding the Respondent has no Rights or Legitimate Interests over the Disputed Domain Name or its major part

The Complainant submits that the Respondent does not have legitimate rights over the Disputed Domain Name or its major part or over similar names or marks and that the Respondent has no relationship at all with the Disputed Domain Name. To these submissions, the Respondent has not indicated objection or submitted contrary evidence.

The Panel also considers that the major part of the Disputed Domain Name is “geforce” and this is of no obvious association with the name information as provided by the Respondent’s registration. Furthermore, the Panel considers that “geforce” itself is not a word or vocabulary of daily general usage.

In these circumstances, the Panel finds that the Complainant has successfully proved that the Respondent does not have legitimate rights over the Disputed Domain Name or its major part. Therefore, the Panel considers that the complaint of the Complainant has satisfied the requirements of Article 8(ii) of the CNDRP.

(3) Regarding the Respondent registered or used the Disputed Domain Name in Bad Faith

To the submissions and reasons raised by the Complainant that the Respondent’s registration or use of the Disputed Domain Name is with bad faith, the Respondent does not indicate any objection or submit any contrary evidence.

The Panel accepts that, prior to the registration of the Disputed Domain Name, the Complainant has been using its “GEFORCE” trademarks/marks/names in trade activities and/or businesses in China, where the Respondent resides. With the finding of successful proof that the Respondent does not have legitimate rights over the Disputed Domain Name or its major part, the Panel finds that the Respondent registers the Disputed Domain Name in circumstances where the Respondent obviously knew of the rights of the Complainant over the “GEFORCE” names or marks. The Panel finds these are sufficient basis to infer the bad faith under Article 9 of the CNDRP.

Accordingly, based on the Complainant having legitimate civil rights and the Respondent not having civil rights over the Disputed Domain Name or its major part, the Panel also finds that the Complainant has succeeded in proving that the registration or use of the Disputed Domain Name is with bad faith under Article 9 of the CNDRP.
5. **Decision**

In the premises, the Panel finds: the Disputed Domain Name is identical or confusing similarly to the names or marks in which the Complainant has civil rights or interests; the Respondent does not have legitimate rights over the Disputed Domain Name or its major part; and the Respondent’s registration of the Disputed Domain Name is with bad faith.

Based on the above facts of the case and reasons, the Panel decides that the Dispute Domain Name be transferred to the Complainant.

Sole Panelist: Mr. Gary Soo (苏国良)
9 September 2014
附件
Appendix

中文翻译本
Chinese Translation

香港国际仲裁中心
行政专家组裁决

案件编号：DCN-1400582

投诉人：NVIDIA Corporation
被投诉人：鹿延
争议域名：<geforce.com.cn>
注册服务机构：北京众鑫乾坤网络科技公司

I、案件程序

2014年7月24日，香港国际仲裁中心（下称仲裁中心）收到投诉人NVIDIA Corporation（下称投诉人）根据《中国互联网络信息中心域名争议解决办法》（下称《解决办法》）、《中国互联网络信息中心域名争议解决办法程序规则》（下称《程序规则》）和《香港国际仲裁中心中国互联网络信息中心域名争议解决办法补充规则》（下称《补充规则》），针对被投诉人鹿延（下称被投诉人）注册的<geforce.com.cn>域名（下称争议域名）提交的英文投诉书。投诉人选择由一人专家组审理本案。

仲裁中心于2014年7月25日向投诉人确认收到投诉文件。2014年7月25日，仲裁中心向争议域名注册服务机构北京众鑫乾坤网络科技公司（下称注册商）发出注册信息确认函，并将此抄送中国互联网络信息中心（CNNIC）。于2014年8月4日，仲裁中心收到注册商对注册信息的确认，确认争议域名注册人/单位是被投诉人、英文名称是LUYAN。

因应投诉人要求以英文作为行政程序所用语言，仲裁中心于2014年8月5日发出电邮，表示《解决办法》第六条规定，除了另有约定或专家组决定外，程序所用语言为中文，因此将该要求转发被投诉人，并将有关语言事宜交由专家组决定。2014年8月6日，仲裁中心以中文及英文向被投诉人发出程序开始通知，送达投诉人提交的文件，并告知被投诉人提交答辩之期限。同日，仲裁中心也以中文及英文向被投诉人转发投诉人以英文作为行政程序所用语言的要求，并邀请被投诉人提出意见以供专家组考虑。

被投诉人没有在规定答辩时间内提交答辩或提出意见。

2014年8月27日，仲裁中心向侯任专家苏国良先生发出通知，要求确认可接受指定，并能在双方当事人之间独立及公正地审理本案件。经侯任专家确认后，仲裁中心通知争议双方指定苏国良先生为独任专家，程序语文是中文和英文，裁决提交日期是2014年9月10日或之前。
II、事实背景

本案投诉人为NVIDIA Corporation，总部设立于Santa Clara, CA 95050, United States，成立于1993年。投诉人为一家享誉国际的知名美国跨国公司，其图形处理器（GPUs）和移动处理器芯片组最为知名。

投诉人公司于1999年再在纳斯达克股票交易所上市，自1999年研发出图形处理器后，已经出口多于十亿个图形处理器。投诉人其后将业务扩张至多项产品。此争议内有关的“GEFORCE”为旗下一图形处理器产品。2014财政年度的盈利预计为42亿美元。2013年的盈利为43亿美元。投诉人将其中一款受欢迎的显示卡命名为“GEFORCE”。其名字是源于投诉人于1999年4月举行的比赛，由大众提交，数目超过12,000份作品参赛。投诉人第一款图形处理器“GeForce256”于一年后推出市场。自从该产品推出后，投诉人将其出产的所有高效处理器纳入“GEFORCE”系列下。投诉人早已在中国内地注册及使用有关商标，包括“GEFORCE”、“GEFORCE 256”、“GEFORCE GTS”和相关的“JI SHI”（“GEFORCE”之繁、简体中文）等。

投诉人本案代理是Micah Ogilvie，其地址是Sunrise Parkway, Linford Wood, Milton Keynes, MK14 6LS, UK。

被投诉人注册了争议域名。

本案争议域名注册服务商为北京众鑫乾坤网络科技公司。

III、当事人主张

投诉人

投诉人主张争议域名与投诉人的注册商标及享有民事权益的名称或者标志等是相同或者具有足以导致混淆的近似性。

如上所述，投诉人表示投诉人多年来享有包括“GEFORCE”的注册商标及有关标志的民事权益，自1999年开始，投诉人之GPUs业务现已遍及全球，其中包含“GEFORCE”品牌的业务。有关其业务及注册商标方面，投诉人提交了多份有关文件。投诉人也指出《中华人民共和国反不正当竞争法》第五条禁止于业务中假冒他人的注册商标。

此外，投诉人亦引用案例指出，争议域名<geforce.com.cn>与投诉人的“GEFORCE”商标相同，而“.com.cn”顶级域名不足以使争议域名变成与其商标不同或不是有足以导致混淆的近似性。

投诉人主张被投诉人对争议域名均不享有权利或合法利益。投诉人认为，其“GEFORCE”商标没有文化上、字面上的一般意义。投诉人亦表明，投诉人从未授权使用其商标，且被投诉人与投诉人完全无关，因此被投诉人对“GEFORCE”不享有任何权利。投诉人也指出，被投诉人的名字是“鹿延”，被投诉人并没有在中国拥有任何与
“GEFORCE”有关的企业或商标注册。

投诉人认为被投诉人对争议域名的注册具有恶意，原因包括:

(a) 投诉人早于 2005 年已在中国拓展业务及合作。被投诉人是在知悉投诉人“GEFORCE”这在中国内地也知名的商标、标志及品牌下，注册争议域名的。

(b) 被投诉人之电邮是[19251688@qq.com]，已被证明是与多于 1,200 域名有关，这表明被投诉人是一位尖端互联网用户，理应尽责调查才注册域名。被投诉人也涉及域名买卖事宜。

(c) 投诉人的官方域名是<ww.GeForce.cn>，被投诉人行为会引起其他互联网用户各种形式之混淆。被投诉人对争议域名并没有享有任何合法权利或权益，其注册争议域名的所为侵犯了投诉人业务、商标及权益。

基于上述理由，投诉人请求本案专家组裁决：本案争议域名转移给投诉人。

被投诉人

被投诉人没有提交答辩意见。

IV、专家组意见

专家组依据《解决办法》、《程序规则》及《补充规则》的规定对本域名争议案进行审理裁决。

程序语言

就行政程序所用语言事宜，《解决办法》第六条表明，程序使用的语言为中文，但投诉人和被投诉人另有约定，或者专家组决定采用其他语言的除外。投诉人要求以英文作为行政程序所用语言，并提出一系列理由及案例以支持其主张，这包括《解决办法》对程序之快速、高效、低费用特质，被投诉人也以英文注册多个域名(包括争议域名)，使用英文不会使被投诉人权益受损，否则被投诉人也可予以提出反对。

被投诉人在收到仲裁中心的有关中、英文电邮后，被投诉人没有对使用英文表示反对。专家组亦注意到仲裁中心于有关电邮中曾表示程序所用语言是“中文和英文”。专家组注意到被投诉人注册所在地是在北京，被投诉人之名字也是中文及英文的。在考虑到投诉人的理据及案件整体情况下，专家组认为，使用英文没有使被投诉人权益受损。

据此，专家组决定，本案行政程序使用的语言为英文，但专家组同时以附件形式发出裁决书的中文翻译本。如有出入，以英文裁决书为准。
根据《解决办法》第八条的规定，符合以下全部条件的投诉，应该得到专家组的支持：
（一）被投诉的域名与投诉人享有民事权益的名称或者标志相同，或者具有足以导致混淆的近似性；
（二）被投诉的域名持有人对域名或者其主要部分不享有合法权益；
（三）被投诉的域名持有人对域名的注册或者使用具有恶意。

《解决办法》第九条规定，被投诉的域名持有人具有下列情形之一的，其行为构成恶意注册或者使用域名：
（一）注册或受让域名的目的是为了向作为民事权益所有人的投诉人或其竞争对手出售、出租或者以其他方式转让该域名，以获取不正当利益；
（二）多次将他人享有合法权益的名称或者标志注册为自己的域名，以阻止他人以域名的形式在互联网上使用其享有合法权益的名称或者标志；
（三）注册或者受让域名是为了损害投诉人的声誉，破坏投诉人正常的业务活动，或者混淆与投诉人之间的区别，误导公众；
（四）其他恶意的情形。

《解决办法》第七条规定，投诉人和被投诉人应当对各自的主张承担举证责任。

《程序规则》第三十四条规定，除非有特殊理由，如果一方当事人未能遵守《程序规则》和《补充规则》的规定或者专家组确定的任何期限，专家组将继续进行程序，直至就所涉争议作出裁决。《程序规则》第三十五条规定，除非有特殊理由，如果一方当事人未能遵守《程序规则》和《补充规则》中的任何规定或专家组的任何指令，专家组有权依其认为适当的情形对此予以推论。

根据本案当事人提交的投诉书及证据材料，专家组对争议进行裁决。本案专家组意见如下：

（一）关于被投诉的域名与投诉人享有民事权益的名称或者标志相同，或者具有足以导致混淆的近似性

投诉人在投诉书附件中，提交了本身及其产品、企业品牌和中国内地的业务及商标注册资料文件。从投诉人所提交的文件可显示，投诉人已注册了及使用了“GEFORCE”这商标、标志及品牌多年。对于这些主张，被投诉人并没有表示反对或出示相反证据。

专家组接纳上述为事实。专家组亦注意到被投诉人是于数年前注册争议域名，专家组认为，从投诉人所提交的资料显示，早于在被投诉人注册这些争议域名前，投诉人已将“GEFORCE”这名称/标志投入于其产品、品牌和中国业务中使用。据此，专家组裁定投诉人对“GEFORCE”这名称或标志拥有符合《解决办法》第八条第一项所要求的民事权利。

在争议域名中，“.cn”为代表中国之国家码顶级域名，“.com”为代表企业的一般性识别
次级域名，在略去争议域名中的相关“.com.cn”，所余下的“geforce”部分，与投诉人之“GEFORCE”名称或标志是相同。鉴于此，专家组认为，这“geforce”部分与投诉人享有民事权益的“GEFORCE”之标志或名称，完全一样或混淆地相似的。

基于对投诉人“GEFORCE”之名称或标志的民事权益的裁定，专家组接纳投诉人的投诉已满足了《解决办法》第八条中第一项之条件，即争议域名与投诉人享有权益的名称或标志相同或者具有足以导致混淆的近似性。

(二)关于被投诉的域名持有人对域名或者其主要识别部分不享有合法权益

投诉人主张，被投诉人并不持有与争议域名或其主要部分相关或相类似名称或标志之合法权益，并提出争议域名与被投诉人没有任何关系。对于这些主张，被投诉人并没有表示反对或出示相反证据。

专家组也认定在争议域名中之主要识别部份是“geforce”，而这与被投诉人所提供的注册名称之资料没有明显关联。而且，专家组认为“geforce”本身也不能被视为一个日常通用字或词。

在这样的情况下，专家组裁定投诉人成功证明被投诉人对争议域名或者其主要部分全部不享有合法权益。因此，专家组认为投诉人的投诉符合并满足了《解决办法》第八条第(二)项之规定。

(三)关于被投诉的域名持有人对域名的注册或者使用具有恶意

对于投诉人就被投诉人对争议域名之注册或使用是具有恶意之各项主张及理据，被投诉人并没有表示反对或出示相反证据。

专家组接纳，投诉人在争议域名注册之前，投诉人已在被投诉人所在地之中国之商业活动及/或业务时使用其“GEFORCE”商标/标志/名称。在投诉人成功证明被投诉人对争议域名或者其主要部分不享有合法权益裁定之前提下，专家组认为，被投诉人明显是在知悉投诉人对“GEFORCE”这名称或标志的权益情况下，注册争议域名。专家组认为这些是足以推定出《解决办法》第九条之恶意之基础。

据此，基于投诉人合法民事权益，及被投诉人对争议域名或其主要组成部分并不享有民事权益，专家组也裁定投诉人成功证明争议域名的注册或使用均是具有《解决办法》第九条之恶意。

V、裁决
综上，专家组认定：争议域名与投诉人享有民事权益的名称和标志相同或具有足以导致混淆的近似性；被投诉人对争议域名或者其主要部分不享有任何合法权益；及被投诉人注册争议域名具有恶意。

基于上述案件事实和理由，本案专家组裁决：争议域名<geforec.com.cn>转移给投诉人。

独任专家： 苏国良

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