

Decision for dispute CAC-UDRP-104502

Case number CAC-UDRP-104502

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Domain names gefcologisticsllc.com

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization GEFCO

Complainant representative

Organization Marks & Clerk France

Respondent

Name Bart Millard

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of several trademark registrations consisting of and/or containing the term GEFCO, e.g. European Union trademark registration no. 010795871 GEFCO (word), registered on August 22, 2012 amongst others for the following services "Transport, in particular transport of merchandise by land, air, river and sea; Freightage by ship, aeroplane, rail, motor vehicle and lorry; Freight brokerage [forwarding]; Logistics in the transport sector;" in class 39. This mark has been duly renewed and is in force; International trademark registration no. 1152600 GEFCO, LOGISTICS FOR MANUFACTURERS, registered on January 25, 2013 amongst others for services of classes 39 and designating several countries worldwide; this mark has been duly renewed and is in force.

FACTUAL BACKGROUND

It results from the Complainant's undisputed allegations that it is a French company created in 1949 and is a world expert in supply-chain solutions and the European leader in automotive logistics. Amongst services of transport, logistics in the transport sector, storage, packaging, warehousing, distribution, the Complainant provides smart, flexible solutions to optimize manufacturers' supply chain. It offers fully integrated services and a truly global, multimodal network.

Moreover, the Complainant owns and uses various domain names containing the term “GEFCO”, in particular <gefco.net> (registered on November 3, 1999) and <gefcologistics.com> (registered on November 9, 1999) which resolves to its official website through which it informs about its products and services.

The disputed domain name <gefcologisticsllc.com> was created on March 22, 2022.

Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolved to a webpage allegedly offering identical/similar services than those of the Complainant: i.e. packaging and storage, warehousing, delivery, air freight.

Finally, since the Respondent used a privacy service hiding its identity, the Complainant sent on April 5, 2022 a cease-and-desist letter to the e-mail address indicated to the website to which the disputed domain name resolved, requesting amongst other to transfer the disputed domain name to the Complainant. However, the Complainant did not receive any Response.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided that the Complainant is the registered owner of many trademarks consisting or containing the term GEFCO.

Many panels have found that a disputed domain name is confusingly similar to a Complainant’s trademark where the disputed domain name incorporates the Complainant’s trademark in its entirety. This is the case at issue where the Complainant’s registered trademark “GEFCO” is fully included in the disputed domain name followed by the generic and descriptive term “logistics”, which corresponds to the Complainant’s area of activity, followed also by the generic term “LLC”, which presumably stands for the acronym for Limited Liability Company. The Complainant’s trademark is clearly recognizable within the disputed domain name and the addition of the descriptive terms does not prevent a finding of confusing similarity, on the contrary it is likely to increase the possibility of confusion amongst consumers.

Finally, the gTLD “.com” of the disputed domain name has to be disregarded under the first element confusing similarity test, since it is a standard registration requirement (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”) at section 1.11).

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

2. Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent’s rights or legitimate interests to the disputed domain name. In the Panel’s view, based on the undisputed allegations stated above, the Complainant has made a prima facie case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and did, in particular, not authorize the Respondent’s use of the trademark GEFCO, e.g., by registering the disputed domain name comprising the said trademark entirely.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Moreover, the Panel notes that the disputed domain name comprises the Complainant’s trademark GEFCO followed by the generic and descriptive term “logistics”, which corresponds to the Complainant’s area of activity, followed also by the generic term “LLC”, and that the trademark GEFCO is not a trademark that one would legitimately adopt as a domain name unless to suggest an affiliation with the Complainant. Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolved to a webpage allegedly offering identical/similar services than those of the Complainant: i.e. packaging and storage, warehousing, delivery, air freight. The Panel finds it most likely that the Respondent selected the disputed domain name with the intent to attract Internet users for commercial gain.

It is acknowledged that once the Panel finds a prima facie case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Since the Complainant has put forward a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name and the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

3. According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, “in particular but without limitation”, be evidence of the disputed domain name’s registration and use in bad faith. One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted 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 its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

It is the view of this Panel that these circumstances are met in the case at hand.

Based on the evidence submitted by the Complainant, this Panel has no doubt that the Respondent positively knew or should have known that the disputed domain name consisted of the Complainant's trademark when it registered the disputed domain name. This is underlined by the fact that the disputed domain name is clearly constituted by the Complainant's registered trademark GEFECO, followed by the generic and descriptive term "logistics", which corresponds to the Complainant's area of activity, followed also by the generic term "LLC". In addition, it results from the Complainant's documented allegations that the disputed domain name resolves to a website allegedly providing similar/identical services to those of the Complainant. Registration of the disputed domain name which contains a third party's mark, in awareness of said mark and in the absence of rights or legitimate interests amounts to registration in bad faith.

The finding of bad faith registration and use is supported by the further circumstances resulting from the case at hand which are: (i) the Respondent's failure to submit a formal response; (ii) its failure to provide any evidence of actual or contemplated good-faith use; (iii) the Respondent failed to reply to the cease and desist letter sent by the Complainant before the commencement of this proceeding); (iv) the Respondent used a privacy service hiding its identity; and (v) the implausibility of any good faith use to which the disputed domain name may be put.

In the light of the above the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. GEFCOLOGISTICSLLC.COM: Transferred

PANELLISTS

Name	Dr. Federica Togo
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DATE OF PANEL DECISION 2022-05-30

Publish the Decision
