

Decision for dispute CAC-UDRP-104558

Case number CAC-UDRP-104558

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Domain names gefcologistics.online

Case administrator

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

Complainant

Organization GEFCO

Complainant representative

Organization Marks & Clerk France

Respondent

Name Lawrence Orman

OTHER LEGAL PROCEEDINGS

The Panel is not conscious of any other pending or decided legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks for "GEFCO", such as:

- French trademark n° 1467049 was registered on May 19, 1988;
- EU trademark n° 010795871, registered on August 22, 2012;
- United Kingdom trademark n° UK00910795871, registered on August 22, 2012;
- Hong Kong trademark n° 302227536, registered on April 19, 2012;
- Mexican trademark n° 1267842, registered on September 21, 2012.

All of the above trademarks relate to transportation and logistics transport services of class 39.

"GEFCO" is also registered as an International trademark registration n° 1127914, designating, for example, Algeria, Croatia, Russia, Morocco, Switzerland, and Ukraine, and registered on July 27, 2012, in classes 20 and 39.

Additionally, the Complainant owns other trademarks, such as:

International trademark registration n° 864630 for "GEFCO LOGISTICS FOR MANUFACTURERS" (combined) registered since 2005 for transportation and logistics transport services of classes 39. The latter designates most of the countries of Europe, the UK, Turkey, Tunisia, Argentina, and China.

International trademark registration n° 1152600 for "GEFCO, LOGISTICS FOR MANUFACTURERS" registered since 2005 for services of classes 39, which designates, for example, Algeria, China, Croatia, Russia, Morocco, Switzerland, Turkey, and Ukraine.

FACTUAL BACKGROUND

The following facts have been asserted by the Complainant and have not been contested by the Respondent:

GEFCO is a French company created in 1949. GEFCO is a world expert in supply-chain solutions and the European leader in automotive logistics. GEFCO provides smart, flexible solutions to optimize manufacturers' supply chains among transport, storage, packaging, warehousing, and distribution services. Serving 10+ industries, GEFCO offers fully integrated services and a truly global, multimodal network. For more information, you can visit the website "www.gefco.net".

For any purpose it may serve, it is to be noted that GEFCO, with 300 destinations across five continents, is also the Company name and trade name of the Complainant and included in all its subsidiaries worldwide.

GEFCO is also the owner of several domain names under various extensions, such as, but not limited to, country extensions as gefco.cn, gefco.mx, gefco.jp, gefco.asia or with a broader scope like gefco.international, gefco.net, gefco-international.net as well as GEFCOLOGISTICS.COM.

The disputed domain name was registered on October 4, 2021.

PARTIES CONTENTIONS

I. Identical or Confusingly Similar

As for the comparison of signs between the disputed domain name and the Complainant's trademark, we first have to say that GEFCO is a creative word composed of the acronym for "Groupages Express de Franche-Comté" (in French), which means in English "Express groupings from Franche-Comté" – Franche-Comté is a Region from France.

As for the disputed domain name, "logistics," being generic and fully descriptive, the attractive term to consider when comparing signs is "GEFCO" alone. Also, it is to be reminded that Complainant owns the almost identical domain name gefcologistics.com and trademarks composed of both "GEFCO" and "LOGISTICS (GEFCO LOGISTICS FOR MANUFACTURERS" (combined) and "GEFCO, LOGISTICS FOR MANUFACTURERS").

As a consequence, "GEFCO" being entirely comprised in the disputed domain name, we state that it is identical or at least highly similar to the Complainant's earlier domain name gefcologistics.com and other earlier rights (trademarks, domain names, company name, and trade name "GEFCO").

II. Rights or Legitimate Interests

As previously stated, the Complainant is the sole owner of rights on the trademark "GEFCO", a trademark that is creative and

created by it. The Complainant owns multiple and various kinds of rights to protect this trademark worldwide.

The trademark "GEFCO" of the Complainant is under a worldwide watch for the relevant classes of the Nice Classification. Thus, if "gefcologistics" or "gefco logistics" were filed as trademarks anywhere in the world and for any goods and services, it would have been disclosed in the watch and opposed straightaway.

The Complainant has never been contacted by someone willing to register the disputed domain name in issue, nor has the Complainant given any authorization to anyone to use or apply for registration of the disputed domain name.

So, registration of the disputed domain name comprising "GEFCO" juxtaposed to the descriptive term "logistics"– that is to say, highly similar to its earlier rights - has never been authorized by the Complainant.

Also, the website associated with the disputed domain name is inactive, which shows the absence of interest of Respondent in the disputed domain name, which is rather registered for phishing activities (IP address created).

Moreover, the Respondent chose to have his contact details anonymized on the WHOIS. So, what was disclosed were the contact details of the privacy service provider "withheld for privacy" with a postal address in Reykjavik, Iceland. And the Phone number is already reported on the Internet as having been used for scams. So, other fraudulent domain names using identical phone numbers have been identified as scamming practices. We thus fear that Respondent is a professional scammer or intends to be.

The Complainant states that there is no legitimate reason for the registrant to adopt the disputed domain name.

III. Registered and Used in Bad Faith

Firstly, we assume that the Respondent could not ignore the existence of the earlier rights and uses for "GEFCO" as it is a world expert in supply-chain solutions and the European leader in automotive logistics and is active worldwide.

There is only to write "gefcologistics.online" or "gefcologistics" in the Google Bar to realize that all first results refer to the Complainant's websites, actualities, or services.

Consequently, the actual knowledge of the Complainant's trademarks and activities at the time of the disputed domain name registration has to be considered constitutive of bad faith.

More than that, we state that Respondent deliberately registered for phishing practices.

Indeed, the website associated with the disputed domain name is inactive, which shows the absence of interest of Respondent in the disputed domain name, which is rather registered for phishing activities.

The fraudulent character of the registration at stake is indeed intensified because an IP address (51.89.87.113) has been created. The purpose of the said registration is thus phishing. The Respondent intends or attempts to plan to impersonate itself as a trustworthy entity (namely, the Complainant) to obtain sensitive information from the Complainant's clients.

To conclude, the Respondent does not make fair use of the disputed domain name, which was only registered to mislead/divert the Complainant's clients. Registration was also made to create an IP address with the intent to proceed to phishing, commercial emailing, or spamming activities. More than infringing the Complainant's earlier rights, creating the disputed domain name attempts to public order since random recipients may be contacted through this e-mail address for downloading files and spreading malware or harming in various ways.

The Complainant does consider that the reservation of the disputed domain name infringes its rights to the eponym trademark "GEFCO", which breaches its reputation built all along these 70 past years.

RESPONDENT

No administratively compliant Response has been filed.

RIGHTS

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

NO RIGHTS OR LEGITIMATE INTERESTS

To the satisfaction of the Panel, the Complainant has 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

To the satisfaction of the Panel, the Complainant has 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 have been met, and there is no other reason why it would be unsuitable for providing the Decision.

PRINCIPAL REASONS FOR THE DECISION

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has shown it owns rights in the trademark "GEFCO" trademark, with various registration, with the earliest one dating back to 1988. The Complainant also has shown rights for other trademarks, including "GEFCO LOGISTICS FOR MANUFACTURERS" (combined), registered since 2005.

Now, the Panel must turn to analyse if there is a confusing similarity between the disputed domain name and the trademark. As contained in the record before the Panel, the disputed domain name reproduces the trademark in its totality, with an exception. The Panel was to analyse the first trademark mentioned above, and the disputed domain name reproduces the trademark with the addition of the term "logistics". This addition is immaterial to dispel the confusing similarity between the disputed domain name and the Complainant's trademarks. Concerning the second trademark, the disputed domain name reproduces the first two terms in the trademark in its totality, namely "GEFCO LOGISTICS", leaving aside "FOR MANUFACTURERS". As is the case in the first trademark, these changes are immaterial to dispel the confusing similarity between the disputed domain name and the Complainant's trademarks.

In addition, the use of the term "logistics" appears to refer to one of the main activities of the Complainant, as well as to a domain name used widely by the Complainant, namely, <gefcologistics.com>. These facts alone perhaps do not mean much, but in conjunction can be used to infer elements and relevant conclusions on the balance of probabilities. However, further analysis will be conducted under the second and third elements under the UDRP Policy set out below.

Consequently, the Panel determines that the Complaint has satisfied the first element set under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Based on the evidence on record and acknowledging that the Respondent failed to produce any allegations or evidence necessary to demonstrate its rights or legitimate interests in the disputed domain name, the Panel must turn to the

uncontested facts.

The uncontested facts indicate that a) the Respondent is not commonly known by the disputed domain name; b) the Respondent has no license or authorization to use the trademarks; c) the Respondent is not affiliated with the Complainant; d) the Respondent is not authorized to carry out any activity for the Complainant and has no business dealings with the Complainant and e) the Respondent is not using the disputed domain name and has not demonstrable plans to use the disputed domain name legitimately.

In failing to respond to the Complainant's contentions, the Respondent has not rebutted the prima facie case, as described in paragraph 2.1 of WIPO 3.0 Overview.

In addition to this, the Respondent's use of the trademark plus the term "logistics", which refers to both the main activity of the Complainant as well as part of the trademark of the Complainant, seems to indicate, on the balance of probabilities, that the Respondent not only was aware of the Complainant but deliberately targeted the Complainant to benefit from the association to the Complainant and confuse Internet users as to the source of sponsorship. A practice like this can never be considered a bona fide offering under the Policy.

These facts lead the Panel to conclude that the Respondent did not have rights or legitimate interests in the disputed domain name.

Consequently, the Panel determines that the Respondent has no rights or legitimate interests in the disputed domain name. Subsequently, the Complainant has fulfilled the second requirement set under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

As per the record and evidence at hand, the Panel finds that the Respondent was likely aware of the Complainant and had the Complainant's trademark in mind when registering the disputed domain name. This conclusion is reinforced by the fact that the Respondent seems to evoke a connection to the Complainant's trademark by including the term "logistics", which refers to both the main activity of the Complainant as well as part of the trademark of the Complainant, seems to indicate, on the balance of probabilities, that the Respondent targeted the Complainant.

Regarding the arguments by the Complainant relating to the Respondent's intention tending towards fraudulent practices, namely the arguments on the telephone number associated with scamming awareness databases and the creation of e-mail resources for the disputed domain name, these alone would not mean much. Still, on the balance of probabilities based on the evidence on record, the Panel considers there is some merit to these allegations and the evidence provided.

All the preceding analysis leaves the Panel no other option than to conclude that the most likely intention of the Respondent was to intentionally attempt to attract, for commercial gain, Internet users to its website/disputed domain name, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and/or disputed domain name, as per illustrated under paragraph 3.1 of WIPO 3.0 Overview.

In light of the case's circumstances, based on the available records, the Panel finds that the Complainant has proven that the disputed domain name was registered and is used in bad faith according to paragraph 4(a)(iii) of the Policy.

D. Decision

For the preceding reasons and in concurrence with the provisions specified under Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the disputed domain name to the Complainant.

Accepted

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

1. **GEFCOLOGISTICS.ONLINE**: Transferred
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PANELLISTS

Name	Rodolfo Carlos Rivas Rea
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DATE OF PANEL DECISION 2022-05-31

Publish the Decision
