

Decision for dispute CAC-UDRP-104739

Case number **CAC-UDRP-104739**

Time of filing **2022-07-15 09:23:54**

Domain names **gefcologisticsco.com**

Case administrator

Organization **Denisa Bilík (CAC) (Case admin)**

Complainant

Organization **GEFCO**

Complainant representative

Organization **Marks & Clerk France**

Respondent

Name **Bob Lee**

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

- Registered national trademark GEFCO in France in 1988 (No. 1467049);
- European Union trademark GEFCO No. 010795871;
- United Kingdom under No. UK00910795871;
- Hong Kong No. 302227536, Mexico No. 1267842;
- IR No. 1 127 914 GEFCO (designating i.a. Algeria, Croatia, Russia, Morocco, Switzerland, Ukraine);
- IR No. 864630 GEFCO LOGISTICS FOR MANUFACTURERS (combined logo blue/yellow) designating most of the countries in Europe, the UK, Turkey, Tunisia, Argentina and China;
- IR No. 1152600 GEFCO, LOGISTICS FOR MANUFACTURERS, covering Algeria, China, Croatia, Russia, Morocco, Switzerland, Turkey, and Ukraine;
- IRs No. 1 400 217 GEFCO. PARTNERS, UNLIMITED; and
- IR No. 1 401 963 GEFCO. INFINITE PROXIMITY designating Indonesia for, among others, services of class 39.

All these marks are registered at least in classes 39 for services of transportation, storage, packaging, warehousing, distribution and logistics transport services as shown on the attached extracts of databases from France, EUIPO, WIPO, United Kingdom,

Hong Kong and Mexico Trademark Offices.

Since the first application for GEFCO in France in 1988 (under n° 1467049) the word mark GEFCO has been registered all around the world for example, but not limited to the European Union, United Kingdom, Hong Kong, Mexico, Algeria, Croatia, Russia, Morocco, Switzerland, Ukraine, Complainants IR trademark GEFCO LOGISTICS FOR MANUFACTURERS (combined logo blue/yellow) is designated for most of the countries of Europe, the UK, Turkey, Tunisia, Argentina and China. IR Trademark GEFCO, LOGISTICS FOR MANUFACTURERS is designated for Algeria, China, Croatia, Russia, Morocco, Switzerland, Turkey, and Ukraine.

As for Indonesia, where the Respondent pretends to be located, GEFCO also owns IR Trademarks No. 1 400 217 GEFCO. PARTNERS, UNLIMITED and IR No. 1 401 963 GEFCO. INFINITE PROXIMITY.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

A) Factual Background – Prior rights of the Complainant

GEFCO is a French company created in 1949. GEFCO is a world expert in supply-chain solutions and the European leader in automotive logistics. Amongst services of transport, storage, packaging, warehousing, distribution, GEFCO provides smart, flexible solutions to optimize manufacturers' supply chain. Serving 10+ industries, GEFCO has fully integrated services and a truly global, multimodal network. The official website is www.gefco.net.

GEFCO owns more than hundreds of trademarks worldwide including the denomination GEFCO.

- 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>, <GEFCOLOGISTICSLLC.COM> and <GEFCOLOGISTICS.ONLINE>.

Two domain names <GEFCOLOGISTICSLLC.COM> and <GEFCOLOGISTICS.ONLINE> were transferred to Complainant in recent UDRP decisions.

Registration of domain name <gefcologisticsco.com> infringes or at least breaches all the aforesaid rights of the Complainant on GEFCO.

GEFCO is a French company created in 1949. GEFCO is a world expert in supply-chain solutions and the European leader in automotive logistics. Amongst services of transport, storage, packaging, warehousing, distribution and logistics transport services, GEFCO provides smart, flexible solutions to optimize manufacturer's' supply chain. Serving 10+ industries, GEFCO offers fully integrated services and a truly global, multimodal network.

GEFCO is thus the owner of rights on the term GEFCO registered as trademarks, company names/trade names and domain names, as detailed above.

II – Legal grounds/similarity of signs

GEFCO became aware of the registration of the domain name <gefcologisticsco.com> which occurred on June 29, 2022. The disputed domain name resolves to a webpage offering exact same activities/services than Complainant: ie.: Packing and storage, warehousing, delivery, sea, air and land shipping, transportation, logistics etc.

As for the comparison of signs between <gefcologisticsllc.com> and the denomination GEFCO owned by GEFCO, it is GEFCO is a creative word composed of the acronym for "Groupages Express de Franche-Comté" (in French) what 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 – and corresponds to Complainant's area of

activity, “co” being the abbreviation for “company”, the attractive term that is to take into account in the comparison of signs is “GEFCO” alone. Also, Complainant owns the almost identical domain names <gefcologistics.com>, <gefcologisticsllc.com> and <gefcologistics.online> and trademarks composed of both GEFCO and LOGISTICS (GEFCO LOGISTICS FOR MANUFACTURERS (combined) and GEFCO, LOGISTICS FOR MANUFACTURERS).

GEFCO is fully comprised and recognizable in the disputed domain name. This domain name <gefcologisticsco.com> is highly similar to GEFCO earlier rights (trademarks, domain names, company name and trade name “GEFCO”). The fact that the disputed domain name comprised descriptive terms which for one corresponds to Complainant’s area of activity, is even likely to increase the possibility of confusion amongst consumers.

III – Respondent does not have any rights or legitimate interest in the disputed domain name <gefcologisticsco.com>.

GEFCO is the sole owner of rights on the denomination GEFCO, denomination which is creative and created by it. GEFCO owns multiple and various kind of rights to protect this denomination all around the world.

Trademark GEFCO is owned by Complainant.

GEFCO has never been contacted by someone willing to register the domain name in issue nor has given any authorization to anyone to make any use, or apply for registration of the domain name <gefcologisticsco.com>.

The domain name comprising GEFCO juxtaposed to descriptive terms “logistics” and “co” – is highly similar to Complainant’s earlier rights. The domain name refers expressly to complainant’s area of activity. It has never been authorized by GEFCO. The disputed domain name is used to host and provide the exact same services what is a clear breach of GEFCO’s rights and reputation.

Moreover, respondent choose to have his contact details anonymized on the WHOIS.

An address e-mail corresponding to the disputed domain name has been created (please see below) and Respondent was really reactive to create its website (in less than two weeks) which hosted, for example, random photos from the internet (eg. Board members) and a commercial from UPS surely to attract the client/victim <http://gefcologisticsco.com/>.

IV – The domain name has been registered and is being used in bad faith.

The registrant cannot have been ignoring 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.

As such, when searching “gefco” and more “gefco logistics” on an internet search engine all first results refer to the complainant’s websites, actualities and services.

As a consequence, the actual knowledge of GEFCO’s trademarks/denomination and activities at the time of the registration of the disputed domain name have to be considered as an act of bad faith. Registration of <gefcologisticsco.com> was made in awareness of Complainant earlier and legitimate rights and activities.

The Respondent deliberately registered the disputed domain name with the intention to create a likelihood of confusion in the consumers’ mind. In order to complete the phishing practice, a website offering the exact same services/activities than Respondent was released only few days thereafter, a fake company name “GEFCO LOGISTICS” was chosen and published on said website and an e-mail address was created.

The fraudulent character of the registration at stake is also intensified by the fact that an IP address (154.16.170.58) has been created. Purpose of the said registration is thus phishing that is that respondent intents or attempts to intent that to impersonate itself as a trustworthy entity (namely, GEFCO) in order to obtain sensitive information from complainant’s clients. In recent WIPO Arbitration it was asserted that the sole creation of an IP address was an act constitutive of bad faith (Robertet

SA v. Marie Claude Holler, WIPO Case No. D2018-1878, November 6, 2018 and Credit Industriel et Commercial S.A. v. Xing Zhou, WIPO Case No. D2019-0654, May 17, 2019).

The Respondent uses the colours blue and yellow on its website, what is the exact colour play of GEFCO as it can be verified on its website <https://www.gefco.net> and is also the colour play of some of its registered trademarks. Definitely, the balance of probabilities seems to indicate the Respondent targeted the Complainant.

The Registrant clearly does not make fair use of the domain name which was only registered mislead/divert GEFCO clients. Registration of the term GEFCO plus the descriptive term of activity of complainant which resolves to a website offering the exact same services as Complainant's is no coincidence. It was clearly made to suggest an affiliation with the Complainant. Registration was also made to create an IP address with the intent to proceed to phishing, commercial emailing or spamming activities. More than infringing Complainant's earlier rights, the creation of the disputed domain name attempts to public order since random recipients may be contacted through this e-mail address for downloading files and so spreading malware or harming in various ways.

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

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 <GEFCOLOGISTICSCO.COM>. This is underlined by the fact that the disputed domain name is clearly constituted by the Complainant's registered 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 "co" for Company. 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. **GEFCOLOGISTICSCO.COM**: Transferred

PANELLISTS

Name	Mr. E.J.V.T. van den Broek
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DATE OF PANEL DECISION 2022-08-12

Publish the Decision