

Decision for dispute CAC-UDRP-104803

Case number CAC-UDRP-104803

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Domain names gefco.xyz

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization GEFCO

Complainant representative

Organization ATOUT PI LAPLACE

Respondent

Name Michael Nava

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 has evidenced to be the owner of numerous trademark registrations worldwide relating to its company name and brand "GEFCO", including, but not limited, to the following:

- Word mark GEFCO, European Union Intellectual Property Office (EUIPO), registration No.: 010795871, registration date: August 22, 2012, status: active; and
- Word mark GEFCO, International Trademark/World Intellectual Property Organization (WIPO), registration No.: 1127914, registration date: July 27, 2022, status: active.

Also, the Complainant has substantiated to own numerous domain names relating to its GEFCO trademark, inter alia, the domain name <gefco.net> (registered in 1999), which redirects to the Complainant's official websites at "www.gefco.net", promoting the Complainant's services in the logistics and transport industry.

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 offers fully integrated services and a truly global, multimodal network. Complainant website is www.gefco.net.

- GEFCO is the owner of several trademark registrations for the sign GEFCO in various countries all around the world:

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

You will note that the first application for GEFCO occurred in France in 1988 (under n° 1467049).

Since that date, word mark GEFCO has been registered all around the world for example, but not limited to, in the European Union under n° 010795871, United Kingdom under No. UK00910795871, Hong Kong under No. 302227536, Mexico under No. 1267842, all of them filed in 2012 for transportation and logistics transport services of class 39. GEFCO is also registered as an International trademark registration under No. 1 127 914 GEFCO (designating for example Algeria, Croatia, Russia, Morocco, Switzerland, Ukraine) and registered in classes 20 and 39 since 2012.

Amongst other trademarks owned by Complainant some are composed of both the terms GEFCO and LOGISTICS, such as the IR trademark No. 864630 GEFCO LOGISTICS FOR MANUFACTURERS (combined logo blue/yellow) 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. There is also the IR No. 1152600 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.

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 .

- 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 the name of all its subsidiaries all around the world.

- GEFCO is also the owner of several domain names under various extensions, such as – but not limited not - country extensions as <gefco.cn, gefco.mx, gefco.jp, gefco.asia, but also gefco.net, gefco.biz, gefco.careers, gefco.eu, gefco.info, gefco.international, gefco.media, gefco.mobi, gefco.report, gefco.services, gefco.tel, gefco.vision>.

- Registration of domain name <gefco.xyz> infringes or at least breaches all the aforesaid rights of the Complainant on GEFCO as it will be demonstrated below.

B - Parties' Contentions - The Complainant

Through a careful watch of its rights, GEFCO became aware of the registration of the domain name <gefco.xyz> which occurred on May 29, 2022.

Registrant name/organisation were chosen to be anonymized through a privacy protection service. Disclosed are only the abbreviation of the Country of the Registrant (US) and the State/province (IL). What we can say from that anonymization is that it is often used by scammers.

This disputed domain name resolves to a webpage in which we can see that it is offered for sale for a consequent amount of USD \$1,988.

As for the comparison of signs between <gefco.xyz> and the denomination GEFCO owned by GEFCO, we firstly have to say that 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, the name "gefco" is identical without any alteration to the earlier sign GEFCO. The extension ".xyz" has not to be taken into account when comparing the signs.

As a consequence, GEFCO being fully reproduced without any alteration in the disputed domain name, the Complainant states that domain name <gefco.xyz> is identical to GEFCO earlier rights (trademarks, domain names, company name and trade name "GEFCO").

Respondent does not have any rights or legitimate interest in the domain name <gefco.xyz>.

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.

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 <gefco.xyz>. So, registration of a domain name fully reproducing GEFCO without any alteration - that is to say identical to complainant's earlier rights - has never been authorized by GEFCO especially since the disputed domain name is registered for the purpose of being sold. The Complainant states that only few weeks after its reservation, the domain name <gefco.xyz> is already offered for sale. The Complainant believes that the actual purpose of registration was to have the domain name offered for sale/ to gain money and even more, to sell it to Complainant.

As a consequence, Complainant states that there is no legitimate reason for the registrant to adopt the said domain name.

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

The Complainant assumes that 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.

As such, there is only to write "gefco.xyz" in the Google Bar, to realize that all first results refer to the complainant's websites, actualities and services.

The disputed domain name was made on May 29, 2022 that is at the same period that GEFCO was in the spot of light of actualities for being under acquisition by another company. The balance of probabilities that registration of "communication-gefco" was made in lack of awareness of Complainant is thus very low.

As a consequence, the actual knowledge of GEFCO's trademarks/denomination and activities at the time of the registration of the disputed domain name has to be considered as constitutive of bad faith. Registration of <gefco.xyz> was made in full awareness of Complainant earlier and legitimate rights and activities.

More than that, we state that Respondent deliberately registered the disputed domain name with the intention to sell it to Complainant. Indeed, GEFCO being fully created, only complainant would be interested in the registration of a domain name composed of "gefco". As such, we can realize that only few weeks after its registration, domain name <gefco.xyz> is already offered for sale for a consequent amount of USD \$1,988.

- The Complainant concluded that the registrant clearly does not make fair use of the domain name which was only registered to later sell it to GEFCO. Registration of the term GEFCO without any alteration resolving to a website offering it for sale – only few weeks after its creation/registration - must not be a coincidence but on the contrary was made with a clear fraudulent intention.

GEFCO does consider that the reservation of this domain name infringes its rights to the eponym denomination GEFCO, breaches its reputation built all along these 70 past years.

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

The Panel finds that the disputed domain name is identical to the Complainant's GEFCO trademark, since it incorporates the latter in its entirety with the top-level domain ".xyz" being a standard registration requirement and as such being disregarded under the UDRP first element test.

Therefore, Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

Moreover, the Panel is convinced on the basis of the Complainant's undisputed contentions that the Respondent has neither made use of the disputed domain name in connection with a bona fide offering of goods or services, nor has the Respondent been commonly known by the disputed domain name, nor can it be found that the Respondent has made a legitimate noncommercial or fair use thereof without intent for commercial gain. The Respondent has not been authorized to use the Complainant's GEFCO trademark, either as a domain name or in any other way. Also, there is no reason to believe that the Respondent's name somehow corresponds with the disputed domain name and the Respondent does not appear to have any trademark rights associated with the term "Gefco" on its own. Rather, the Respondent offers the disputed domain name on the Internet for online sale at varying prices (e.g. USD 1,988.00). UDRP panels have recognized that holding a domain name, even one that consists e.g. of a dictionary word or common phrase, and offering it for resale can be bona fide and is not per se illegitimate under the UDRP (see: WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 2.1), but have also found that the mere registration of such a domain name does not by itself automatically confer rights or legitimate interests in the disputed domain name (see WIPO Overview 3.0, section 2.10.1). Accordingly, absent any other indications as to why the Respondent registered and uses the disputed domain name if not to offer it for online sale, there is no other way but to find that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Therefore, the Panel holds that Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

Finally, the Panel holds that the disputed domain name was registered and is being used by the Respondent in bad faith. Offering the disputed domain name which is identical to the Complainant's GEFCO trademark (that undisputedly enjoys considerable recognition throughout many countries worldwide) for online sale and requesting a sales price in the range of

USD 1,988.00 is a clear indication that the Respondent acquired the disputed domain name for the purpose of selling it to the Complainant as the trademark owner for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the disputed domain name. Such circumstances shall be evidence of registration and making use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(i) of the Policy.

The Complainant, therefore, has also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii) and, thus, has fulfilled all three elements provided for by paragraph 4(a) of the Policy, the result being that the disputed domain name be transferred upon the Complainant as requested.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **GEFCO.XYZ**: Transferred

PANELLISTS

Name	Stephanie G. Hartung, LL.M.
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DATE OF PANEL DECISION 2022-09-20

Publish the Decision
