

Decision for dispute CAC-UDRP-104805

Case number	CAC-UDRP-104805
Time of filing	2022-08-23 08:56:56
Domain names	communication-gefco.com

Case administrator

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

Organization	GEFCO
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Complainant representative

Organization	ATOUT PI LAPLACE
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Respondent

Name	David Czinczenheim
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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 owns several GEFCO trademarks protected in class 39, such as:

- the French GEFCO trademark No 1467049 filed in 1988 and duly renewed;
- GEFCO trademarks filed in 2012 and duly renewed, such as the European GEFCO trademark No 010795871, the British GEFCO trademark No UK00910795871, the Hong Kong GEFCO trademark No 302227536, The Mexican GEFCO trademark No 1267842, all of them filed in 2012 for transportation and logistics transport services of class 39;
- the International trademark registration GEFCO No 1 127 914.

The Complainant claims ownership 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>.

It also claims ownership of domain names comprising GEFCO and another term like: <transports-gefco.com>, <voeux-gefco.com>, <groupe-gefco.com>, <gefco-business.com>, <gefco-mosaiq.net>, <gefco-careers.com>, <gefco-france.com>, <gefco-solutions.com>, <gefcosphere.com>, <gefcosolutions.com>, <gefcohub.com>, <gefcologistics.com>, <gefcospecial.com>, <gefcoengineering.com>, <gefcobusiness.com>.

The Complainant asserts 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.

FACTUAL BACKGROUND

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

The Complainant 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.

It runs the website www.gefco.net.

The Respondent has registered the Disputed Domain Name <communication-gefco.com> on May 25, 2022. It's offered for sale, for an amount of €2,499.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant claims that the Disputed Domain Name is confusingly similar to the GEFCO trademarks.

It asserts 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.

The disputed domain name is composed of two identifiable terms "communication" and "gefco":

- COMMUNICATION is a term used to designate every information, communication, news, actuality relating to a topic. In that sense, the meaning of the registered domain name can be considered as "every information/communication/actuality related to GEFCO" either for GEFCO's employees than for its clients or the Press/public. As such, there is only to enter "communication-gefco.com", "communication-gefco" or "communication gefco" in the google bar to realize that all results relate to complainant GEFCO.

The term «communication» is not distinctive.

As a consequence, communication being non-distinctive and GEFCO being fully reproduced without any alteration in the litigious domain name, we state that this domain name "communication-gefco.com" is highly similar to GEFCO's earlier rights (trademarks, domain names, company name and trade name "GEFCO").

The Respondent does not have any rights or legitimate interest in the domain name.

As previously stated, 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.

The GEFCO trademark is under a worldwide watch for the relevant classes of the Nice Classification. Thus, if “communication-gefco”, “communication gefco” or solely “gefco” 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.

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 “communication-gefco.com”.

Registration of a domain name comprising a non-distinctive term “communication” and juxtaposed the fully reproduced word GEFCO without any alteration has never been authorized by GEFCO especially since the disputed domain name is registered for the purpose of being sold.

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

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

The Complainant asserts that it is a world expert in supply-chain solutions and the European leader in automotive logistics and is active worldwide. Respondent is a French person or French-based organization, while GEFCO is French Company too.

An online search on “communication-gefco.com”, “communication-gefco” or “communication gefco” in the Google Bar, provides results that all refer to the complainant’s websites, actualities, news, press releases and services.

The registration of the disputed domain name was made on May 25, 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 <communication-gefco.com> was made in full awareness of Complainant earlier and legitimate rights and activities.

The Complainant’s conviction that the disputed domain name was registered in bad faith, is reinforced by the fact that only few weeks after its registration, it was already offered for sale and for a consequent amount of €2,499.

Respondent deliberately registered the litigious domain name with the intention to sell it to Complainant, to earn a consequent amount of money from complainant. Indeed, only the Complainant could be interested in the registration of a domain name composed of “gefco”.

The Respondent clearly does not make a fair use of the domain name which was only registered to later sell it to GEFCO.

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

RIGHTS

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant is a French company that owns several GEFCO trademarks, such as:

- the French GEFCO trademark No 1467049 filed in 1988 and duly renewed;
- GEFCO trademarks filed in 2012 and duly renewed, such as the European GEFCO trademark No 010795871, the British GEFCO trademark No UK00910795871, the Hong Kong GEFCO trademark No 302227536, The Mexican GEFCO trademark No 1267842, all of them filed in 2012 for transportation and logistics transport services of class 39;
- the International trademark registration GEFCO No 1 127 914.

The Disputed Domain Name is <communication-gefco.com>.

The Disputed Domain Name wholly incorporates the GEFCO trademark.

It only differs from the GEFCO trademarks by the addition of the generic term “communication”.

This addition does not avoid the confusing similarity to the GEFCO trademark.

The Disputed Domain Name then contains the distinctive and recognizable GEFCO trademark.

Thus, the Disputed Domain Name is confusingly similar to the GEFCO trademarks.

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

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the disputed domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, the Respondent’s use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
- (ii) the Respondent has been commonly known by the disputed domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain, to misleadingly divert consumers, or to tarnish the trademark or service mark at issue.

The Whois information record identifies the Respondent as being domiciled in France.

The Complainant asserts that the Respondent is not related in any way with the Complainant and that it did not grant neither license nor authorization to register the disputed domain name. This allegation was not contested by the Respondent.

According to the exhibits provided by the Complainant, the Panel notes that the disputed domain name is offered for sale.

The Respondent did not respond to the Complainant to rebut its prima facie case. It did not provide any evidence or allege any circumstance to establish that it has rights or legitimate interests in the Disputed Domain Name.

Therefore, the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in respect to the Disputed Domain Name.

The Panel concludes that the Respondent did not establish any right or legitimate interest to the Disputed Domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

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

Paragraph 4(b) of the Policy sets out examples of circumstances that will be considered by a Panel to be evidence of bad faith registration and use of the disputed domain name.

It provides that:

“For the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a Domain Name in bad faith:

(i) circumstances indicating that the Respondent has registered or the respondent has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the Domain Name; or

(ii) the Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding Domain Name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the respondent’s website or location or of a product or service on the respondent’s website or location.”

The GEFCO trademarks were registered since 1988 and 2012, and duly renewed since then. The Disputed Domain Name was registered on May 25, 2022.

The Panel agrees that the GEFCO trademarks are highly distinctive. It is reasonable to assume that the Respondent, who is domiciled in France, knew or should have known of the GEFCO trademarks before the registration of the disputed domain name.

The Respondent is using the disputed domain name to resolve to a webpage offering it for sale.

Given its reputation and its position on the market, on a worldwide basis, only the Complainant could be interested in the registration and use of a domain name composed of “gefco”.

Given the circumstances of the case, the Panel is of the opinion that, relying on Par. 4(b)(i) of the Policy “the Respondent has registered the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the Domain Name”.

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

Confusing similarity: the disputed domain name <communication-gefco.com> is composed of the GEFCO trademark with the addition of a generic term which cannot avoid the confusing similarity.

Absence of legitimate right or interest

The Respondent is not related in any way with the Complainant and that it did not grant neither license nor authorization to register the disputed domain name.

The Respondent did not respond to the Complainant to rebut its prima facie case. It did not provide any evidence or allege any circumstance to establish that it has rights or legitimate interests in the Disputed Domain Name.

Bad faith use and registration

The Respondent could not ignore the Complainant's rights on the GEFCO trademarks when it registered the disputed domain name.

The Respondent is using the disputed domain name to resolve to a webpage offering it for sale.

Given its reputation and its position on the market, on a worldwide basis, only the Complainant could be interested in the registration and use of a domain name composed of "gefco".

Given the circumstances of the case, the Panel is of the opinion that, relying on Par. 4(b)(i) of the Policy "the Respondent has registered the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the Domain Name".

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **COMMUNICATION-GEFCO.COM**: Transferred
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PANELLISTS

Name	Marie-Emmanuelle Haas, Avocat
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DATE OF PANEL DECISION 2022-10-04

Publish the Decision
