

## **ADMINISTRATIVE PANEL DECISION**

Government Employees Insurance Company (“GEICO”) v. Andrea Bove,  
GEICO

Case No. D2023-2486

### **1. The Parties**

The Complainant is Government Employees Insurance Company (“GEICO”), United States of America (“United States”), represented by Burns & Levinson LLP, United States.

The Respondent is Andrea Bove, GEICO, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <geicostores.com> is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 7, 2023. On June 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 8, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Contact Privacy Inc. Customer 0167228039) and contact information in the Complaint. The Center sent an email communication to Complainant on June 12, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on June 15, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on June 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 9, 2023. The Respondent sent email communications to the Center on July 3, July 4, and July 5, 2023.

The Center appointed Scott R. Austin as the sole panelist in this matter on August 8, 2023. The Panel finds

that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The following facts appear from the Complaint and its attached Annexes, which have not been contested by Respondent, and which provide evidence sufficient to support:

Complainant is an internationally well-known insurance provider who has provided its insurance brokerage and underwriting services under the mark “GEICO” (the “GEICO Mark”) since at least 1948 for automobiles, motorcycles, homeowners, renters, condominiums, mobile homes, commercial properties, overseas travel, floods, and boats throughout the United States. Complainant has over 43,000 employees which allows it to manage 18 million policies and insure more than 30 million vehicles. Complainant maintains various social media accounts under its famous GEICO Mark, including Facebook, Twitter, Instagram, TikTok, YouTube, and LinkedIn, each of which garner tens of thousands, and in some cases millions, of followers.

The GEICO Mark is protected by Complainant as a registered trademark in numerous countries worldwide for its insurance services, including European Union Registration No. 1178718, registered September 24, 2013, as well as registrations in the United States of record with the United States Patent and Trademark Office (“USPTO”), including, U.S. Trademark Registration No. 0763274, registered January 14, 1964, and U.S. Trademark Registration No. 2601179, registered July 30, 2002.

Complainant also has established a website located at <geico.com>, which Complainant uses to promote and sell its insurance services under the GEICO Mark (the “Official GEICO Mark Website”).

The disputed domain name was registered on May 9, 2023. As of the date of the filing of the Complaint, the disputed domain resolved to a website featuring an inactive Shopify page that displayed Complainant’s GEICO Mark at the header of the website, promoted the page as “Opening soon,” and invited visitors to provide an email address to “Be the first to know when we launch”.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that the disputed domain name is identical or confusingly similar to Complainant’s trademark because its famous GEICO Mark is incorporated in its entirety adding only the term “stores”; that Respondent has no rights or legitimate interests in respect of the disputed domain name which was registered and is being used in bad faith because it resolves to an illegitimate website featuring Complainant’s GEICO Mark to impersonate Complainant and redirect users searching for Complainant’s insurance services to Respondent to phish for their personal and financial information for Respondent’s commercial gain.

##### **B. Respondent**

Respondent did not file a timely or formal Response in reply to Complainant’s contentions. The series of emails submitted by Respondent as supplemental filings is addressed in Section 6.1 below.

## 6. Discussion and Findings

### 6.1 Procedural Matters: Supplemental Filings

The Panel has reviewed the informal communications Respondent sent to the Center as unsolicited supplemental filings on July 3, July 4, and July 5, 2023.

The July 3 email came from an email address which differed from the email listed in Respondent's registration data stated:

"Hello my name is Andrea I'm sending this email as proof that I have canceled and disabled the domain Geicostores and respective Shopify account I apologize for the inconvenience.  
Have a great day"

The Center responded by requesting the sender to confirm they were the same Andrea Bove associated with the email address provided by the registrant for the disputed domain name.

Respondent's July 4, 2023 emails sent from the email attributed to Respondent in the Complaint stated:

"[redacted]  
Is my Email address and I authorize that email"

A little over an hour later Respondent sent from the email attributed to Respondent:

"Hello my name is Andrea I'm sending this email as proof that I have canceled and disabled the domain Geicostores and respective Shopify account I apologize for the inconvenience.  
Have a great day"

Respondent's July 5, 2023 email stated:

"Good afternoon  
I have deleted the domain geico store I agree to withdraw my rights to this name."

The Center forwarded this information to Complainant along with the notice to both parties that:  
"If the Parties wish to explore settlement options, Complainant should submit a request for suspension by July 13, 2023. The proceeding will then be suspended for 30 days. If no request for suspension is received, the proceeding will continue."

The Center received no request for suspension from Complainant, so this proceeding continued.

There is no provision in the Rules for a party to file any additional submission without leave of the Panel. This is because, under the expedited process provided under the Policy and Rules, each party is given one opportunity to put forward all the material on which it wishes to rely and is expected to do so. See, *Delikommat Betriebsverpflegung Gesellschaft m.b.H. v. Alexander Lehner* WIPO Case No. [D2001-1447](#).

Under the Rules, each Party is entitled as of right to submit only one single pleading. Paragraphs 10 and 12 of the Rules grant the Panel discretion to determine the admissibility of supplemental filings, including further statements or documents. The Panel finds that Respondent's emails comprising its informal supplemental filings on July 3, 4, and 5, 2023, should be disregarded as nonresponsive to the requirements of the Policy.

### 6.2 Substantive Issues

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The *onus* is on Complainant to make out its case and it is apparent from the terms of the Policy that Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer a domain name. As the proceedings are administrative, the standard of proof under the Policy is often expressed as the “balance of the probabilities” or “preponderance of the evidence” standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.2.

Thus, for Complainant to succeed it must prove within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
2. Respondent has no rights or legitimate interests in respect of the disputed domain name; and
3. The disputed domain name has been registered and is being used in bad faith.

The Panel finds that Complainant has met its burden in all three elements of the Policy and will deal with each of these elements in more detail below.

#### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant’s trademark and the disputed domain name. See [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.7.

While the addition of the term here, “stores”, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

#### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds Complainant has established a *prima facie* case that

Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. See [WIPO Overview 3.0](#), section 2.13.1. Respondent's website solicits users who access the site under the false pretense that it is somehow affiliated with Complainant, to submit their email address on the fraudulent premise they will be among the first to know when the website is "launched", with news about Complainant.

Based on the available record, the Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. See [WIPO Overview 3.0](#), section 3.2.1. Here, in the Amended Complaint, Complainant contends Respondent actively took steps to conceal its identity by providing inaccurate, incomplete, or conflicting registrant information. Prior UDRP panels have found such actions are indicative of bad faith registration and use of the disputed domain name. See [WIPO Overview 3.0](#), section 3.6; *Government Employees Insurance Company ("GEICO") v. DOMAIN ADMIN Whois protection / "Hulmiho Ukolen, Poste restante"* WIPO Case No. [D2021-0476](#).

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. See [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness or reputation of Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Panels have also held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. See [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

In the present case, the Panel notes that Respondent by incorporating the entirety of Complainant's famous GEICO Mark into the disputed domain name to access a website featuring that mark to confuse consumers, providing a "opening soon" banner appears inactive and similar in configuration to those "coming soon" sites considered in decisions by prior UDRP panels under the doctrine of passive holding. See *LEGO Juris A/S v. Registration Private, Domains by Proxy, LLC / Leonel Andaya*, WIPO Case No. [D2021-0563](#); see also

*Government Employees Insurance Company (“GEICO”) v. 尹军 (yinjun)*, WIPO Case No. [D2020-3332](#). However, the addition on Respondent’s website here of an email signup box encouraging users to “be the first to know when we launch” may also be evidence of configuration and preparation for an illegal phishing scheme for users to submit their personal privacy protected information to Respondent for its commercial benefit. Based on these facts, the Panel finds that Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant’s famous GEICO Mark, and, therefore, Respondent has registered and used the disputed domain name in bad faith under paragraph 4(b)(iv) of the Policy. See [WIPO Overview 3.0](#), section 3.4.

Based on the available record, the Panel finds the third element of the Policy has been established.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <geicostores.com> be transferred to Complainant.

*/Scott R. Austin/*

**Scott R. Austin**

Sole Panelist

Date: August 22, 2023