

ADMINISTRATIVE PANEL DECISION

Government Employees Insurance Company (“GEICO”) v. Carmelo Rivera, A To Z Consulting Group
Case No. D2023-1043

1. The Parties

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

Respondent is Carmelo Rivera, A To Z Consulting Group, United States.

2. The Domain Name and Registrar

The disputed domain name <geico-ai.online> is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 8, 2023. On March 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 10, 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 (Private, 1&1 Internet Inc) and contact information in the Complaint. The Center sent an email communication to Complainant on March 13, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on March 13, 2023.

The Center verified that the Complaint together with the amendment to the 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 March 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 5, 2023. Respondent sent email communications to the Center on March 23, April 6, 10, 11, and 12, 2023, discussed below. On April 12, 2023, the Center informed the Parties that it would proceed with panel appointment.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on April 21, 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.

On April 22, 2023, Respondent sent another email communication to the Center.

The Panel notes that on April 6, 2023 at 4:45AM, the Center received Respondent's request for an extension of four calendar days to file a Response. The Panel further notes that, according to the Registrar Verification Reply dated March 10, 2023, Respondent appears to be located in California, United States. Therefore, the Panel considers that Respondent submitted its extension request pursuant to paragraph 5(b) of the Rules prior to the Response due date. The Panel accordingly issued Procedural Order No.1 on May 17, 2023, allowing Respondent until May 21, 2023 to file a Response, if any. The Center received three email communications from Respondent in response to Procedural Order No.1.

4. Factual Background

Complainant is a well-known insurance business in the United States with millions of customers. Complainant owns various international and United States trademark registrations for its GEICO mark, including United States Trademark Registration No. 763,274, registered January 14, 1964 in United States Class 102, with a first use in commerce date of 1948.

The disputed domain name was registered March 1, 2023 and does not resolve to an active webpage.

5. Parties' Contentions

A. Complainant

Complainant alleges that its GEICO trademark is famous worldwide, that it has over 18 million policies and insures over 30 million vehicles, and that it employs 43,000 people.

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is identical or confusingly similar to Complainant's trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith, all in violation of the Policy. On this basis, Complainant seeks transfer of the disputed domain name.

B. Respondent

As noted above, Respondent sent emails to the Center on March 23, April 6, 10, 11, 12, and 22, 2023. In Response to Procedural Order No. 1, on May 21, 2023, Respondent sent his first substantive reply to the Complaint via two email communications.¹ In those communications, Respondent contends that the Panel should deny the Complaint on the grounds described below.

Addressing the first element of Policy, paragraph 4(a), Respondent alleges that the disputed domain name is not identical or confusingly similar to Complainant's GEICO marks because Respondent's use of the disputed domain name does not violate Complainant's trademark rights. Respondent also contends that the inclusion of the abbreviation "ai" distinguishes the disputed domain name from Complainant's GEICO trademark.

¹ The Center received another email communication from Respondent on May 22, 2023, in which Respondent simply reiterated that he filed his Response by May 21, 2023.

Respondent also avers that Respondent intended the term “Geico” in the disputed domain name to be an acronym for the phrases relating to computing and artificial intelligence listed below.²

As to the second element of Policy, paragraph 4(a), Respondent avers that “I registered [the disputed domain name] with genuine intentions and purposes related to providing information and services within the field of artificial intelligence.”

Respecting the third element of Policy, paragraph 4(a), Respondent alleges that Respondent “registered and [has] been using the domain name in good faith, without any intention to mislead or divert Internet users for commercial gain. The passive holding of the domain name should not be interpreted as indicative of bad faith, as I have concrete plans to develop and utilize the domain name in the future for a website regarding artificial intelligence and nothing that would coincide with any trademark infringement or tarnish any brand.” Respondent also asserts that the choice of the “geico” acronym in the disputed domain name “aligns with the purpose and intended use of the domain name [...]”

The Panel notes that Respondent provided no additional detail about his putative plans for the website and did not submit any evidence or annexes with his reply.

6. Discussion and Findings

The Rules require the Panel to decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable. Rules, paragraph 15(a). Complainant must establish each element of paragraph 4(a) of the Policy, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel agrees with Complainant’s allegation that the disputed domain name is confusingly similar to Complainant’s GEICO mark.

UDRP panels commonly disregard Top-Level Domains (“TLDs”) in determining whether a disputed domain name is identical or similar to a complainant’s marks. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.11.1.

Omitting the “.online” TLD from the disputed domain name, the Panel notes that Complainant’s entire GEICO mark is included in the disputed domain name, adding only a hyphen and the term “ai”. The Panel finds that these additions to Complainant’s mark do not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.7 (where a domain name incorporates the entirety of a trademark, the domain name will normally be considered by UDRP panels to be confusingly similar); *id.*, section 1.8 (“Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”).

² G - Global Entity for Intelligent Computing and Optimization;

E - Enhanced Efficiency and Information Coordination;

I - Intelligent Systems Integration and Control;

C - Cognitive Operations and Analysis;

O - Optimal Decision-making and Optimization.

The Panel therefore concludes that the first element of paragraph 4(a) of the Policy is satisfied.³

B. Rights or Legitimate Interests

The Panel also concludes that Respondent has no rights or legitimate interests in the disputed domain name.

The Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes: (1) using the domain name in connection with a *bona fide* offering of goods and services; (2) being commonly known by the domain name; or (3) making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers. Policy, paragraphs 4(c)(i) – (iii).

A complainant must show a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, after which the burden of production passes to the respondent. See, e.g., [WIPO Overview 3.0](#), section 2.1. The absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent does not submit relevant evidence rebutting the *prima facie* case. *Id.*

The Panel accepts Complainant's undisputed allegations that Respondent has no relevant trademark rights and has no authorization or license to use Complainant's trademark in the disputed domain name. The Panel also accepts Complainant's uncontroverted averment that Respondent is not commonly known by the disputed domain name.

The record indicates that the disputed domain name does not resolve to an active webpage. Under the UDRP, a respondent may prove that it will be making *bona fide* use of a disputed domain name, for example, by showing a business plan or other preparations for the legitimate use of a domain name prior to the filing of a complaint. See [WIPO Overview 3.0](#), section 2.2.

In this case, Respondent represents that he intends to use the disputed domain name to provide information and services relating to artificial intelligence. The Panel notes that the term "ai" in the disputed domain name may be seen as an abbreviation for "artificial intelligence.

Nonetheless, the Panel finds unconvincing Respondent's explanation that he chose to use the term "geico" for use in a website presenting information on computing and artificial intelligence. Respondent does not provide any evidence whatsoever supporting his claimed intentions and, to the Panel's knowledge, makes these representations only in response to, and after, the Complaint was filed against him.

Further, Respondent is not making a *bona fide* offering or noncommercial legitimate or fair use of the disputed domain name, as the disputed domain name has not been used.

In light of the evidence and allegations, the Panel finds that the Complainant has established a *prima facie* case and that Respondent has not rebutted that *prima facie* case.

The Panel holds, therefore, that Respondent has no rights or legitimate interests in the disputed domain name and that the second element of Policy, paragraph 4(a) is established.

C. Registered and Used in Bad Faith

The Panel also finds that the third element of Policy paragraph 4(a) is established.

³ The Panel refrains from considering Respondent's contention that the disputed domain name is distinguishable from the GEICO mark under applicable trademark rules. The governing test under Policy, paragraph 4(a)(i) does not rely on analysis of trademark infringement and requires the Panel to make a simple determination of identity or confusing similarity between the disputed domain name and Complainant's trademark.

Complainant's GEICO mark is well known and was used in commerce for nearly 80 years before Respondent, located in the United States, registered the disputed domain name. The Panel agrees with Complainant that, under the Policy, the mere registration of a disputed domain name that completely includes Complainant's widely-known GEICO trademark by Respondent, who is not affiliated with Complainant, creates a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The Panel has already observed that Respondent's representations of its intentions to make legitimate use of the disputed domain name are unsupported by evidence. Considering the distinctiveness and well-known nature of Complainant's GEICO mark, it is not possible for Respondent to make good-faith use of the disputed domain name without suggesting sponsorship or endorsement by Complainant.

The Panel also finds that Respondent's passive holding of the disputed domain name is additional evidence that supports a finding of bad faith. *E.g., Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); [WIPO Overview 3.0](#), section 3.3.

In conclusion, the Panel holds that Respondent registered and is using the disputed domain name in bad faith.

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 <geico-ai.online> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: May 24, 2023