

ADMINISTRATIVE PANEL DECISION

Peter Millar, LLC v. Tom Schmid, Ute Richter, Bernd Schmidt, Klaudia Foerster, Johanna Furst, Phillip Maier, Christina Pabst, Dirk Eichmann, Barbara Brandt, Birgit Osterhagen, Name Redacted, Alejandro Espejo, ZhouRunFa, Client Care, Web Commerce Communications Limited
Case No. D2023-3240

1. The Parties

The Complainant is Peter Millar, LLC, United States of America, represented by Corsearch, United States of America ("United States").

The Respondents are Tom Schmid, Germany, Ute Richter, Germany, Bernd Schmidt, Germany, Klaudia Foerster, Germany, Johanna Furst, Germany, Phillip Maier, Germany, Christina Pabst, Germany, Dirk Eichmann, Germany, Barbara Brandt, Germany, Birgit Osterhagen, Germany, Name Redacted¹, United States, Alejandro Espejo, United States, ZhouRunFa, China, and Client Care, Web Commerce Communications Limited, Malaysia.

2. The Domain Names and Registrars

The disputed domain names <gforeaustraliasale.com>, <gforecanadaoutlet.com>, <gforecanadasale.com>, <gfore-chile.com>, <gfore-danmark.com>, <gforeespanaoutlet.com>, <gforefranceoutlet.com>, <gforegolfcanada.com>, <gforegolfchile.com>, <gforegolfdeutschland.com>, <gforegolf-france.com>, <gforegolffrance.com>, <gforegolfitalia.com>, <gforegolfnederland.com>, <gforeoutletchile.com>, <gforegolfnz.com>, <gforegolfschweiz.com>, <gforegolfshoesireland.com>, <gforegolfshoesuk.com>, <gforegolfturkiye.com>, <gforegolfusa.com>, <gfore-japan.com>, <gfore-nederland.com>, <gfore-nz.com>, <gforeoutletespana.com>, <gforeoutletfrance.com>, <gforeoutletnz.com>, <gforeoutletturkiye.com>, <gfore-romania.com>, <gforeshoescanada.com>, <gforeshoesphilippines.com>, <gforeshoessingapore.com>, <gforesingaporesale.com>, <gfore-southafrica.com>, <gforestorejapan.com>, <gfore-suomi.com>, <gfore-sverige.com>, <gfore-turkiye.com>, <gforeuksale.com>, <gforeusa-sale.com>, <gforeusasale.com> are registered with Alibaba.com Singapore E-Commerce Private Limited.

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name <gforecanada.net>. In light of the potential identity theft, the Panel has redacted the Respondent's name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name <gforecanada.net>, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

The disputed domain names <gforecanada.net> and <gforeschweiz.net> are registered with Gransy, s.r.o. d/b/a subreg.cz.

The disputed domain names <gforegolf-belgie.com>, <gforegolfbelgie.com>, <gforegolfsuomi.com>, <gforegolfuk.com>, <gforeindia.com>, <gforeirelandsale.com>, <gforemexicomx.com>, <gfore-osterreich.com>, <gforeoutletbelgie.com>, <gforesaleaustralia.com>, and <gforesaleusa.com> are registered with Web Commerce Communications Limited dba WebNic.cc (jointly referred to as “the Registrars”).

All abovementioned disputed domain names will jointly be referred to as the “Domain Names”.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 19, 2023. On July 27, 2023, and August 9, 2023, the Center transmitted by email to the Registrars requests for registrar verification in connection with the Domain Names. On July 28 and 31, 2023, and August 11, 2023, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the Domain Names, which differed from the named Respondents and contact information in the Complaint. The Center sent an email communication to the Complainant on August 11, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on August 16, 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 the Respondent of the Complaint, and the proceedings commenced on August 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 6, 2023. The Respondents did not submit any substantive response, however the Center received an email communication from a third party on August 31, 2023. Accordingly, the Center notified the Commencement of Panel Appointment Process on September 7, 2023.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on September 12, 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 are undisputed.

The Complainant is a premium American lifestyle brand founded in 2001. In 2018, the Complainant acquired the Los Angeles-based G/FORE, a golf inspired sportswear and accessories brand for men and women. These products can be found online at the Complainant’s websites connected to domain names, e.g., <gfore.com>, <gfore.co.uk> and at specialized retailers and golf pro shops in more than 35 countries.

The Complainant is the owner of several trademark registrations, including but not limited to, the United States trademark registration G FORE (word mark), with registration no. 4035425 and with registration date October 4, 2011, for goods in class 28, as well as the European Union Trade Mark registration G FORE (word mark), with registration no. 011699618 and with registration date August 9, 2023, for goods in classes 25 and 28 (hereinafter singularly referred to as the “Trademark”).

Most Domain Names were registered in either May or June 2023. The following Domain Names resolve to websites where men and women's golf apparel and accessories are being offered:

<gforeaustraliasale.com>, <gforecanada.net>, <gforecanadasale.com>, <gfore-chile.com>, <gforeespanaoutlet.com>, <gforegolfbelgie.com>, <gforegolf-belgie.com>, <gforegolfcanada.com>, <gforegolfchile.com>, <gforegolfdeutschland.com>, <gforegolffrance.com>, <gforegolf-france.com>, <gforegolfitalia.com>, <gforegolfnederland.com>, <gforegolfnz.com>, <gforegolfschweiz.com>, <gforegolfshoesireland.com>, <gforegolfshoesuk.com>, <gforegolfsuomi.com>, <gforegolfturkiye.com>, <gforeindia.com>, <gforeireland.com>, <gfore-japan.com>, <gforemexicomx.com>, <gfore-nederland.com>, <gfore-nz.com>, <gfore-osterreich.com>, <gforeoutletbelgie.com>, <gforeoutletespana.com>, <gforeoutletfrance.com>, <gforeoutletturkiye.com>, <gfore-romania.com>, <gforesaleaustralia.com>, <gforesaleusa.com>, <gforeschweiz.net>, <gforeshoescanada.com>, <gforeshoesphilippines.com>, <gforeshoessingapore.com>, <gforesingaporesale.com>, <gfore-southafrica.com>, <gforestorejapan.com>, <gfore-suomi.com>, <gforesverige.com>, <gfore-turkiye.com>, <gforeuksale.com>, and <gforeusasale.com> (jointly referred to as "the first group of Domain Names").

The Domain Names <gfore-danmark.com>, <gforegolfuk.com>, <gforegolfusa.com>, <gforeirelandsale.com>, and <gforeoutletchile.com> (jointly referred to as "the second group of Domain Names") do not resolve to any active website.

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 Domain Names.

Notably, the Complainant contends that the Domain Names are all confusingly similar to the Trademark in which the Complainant has longstanding rights. More specifically, the Domain Names all incorporate the Trademark in its entirety, merely adding various terms, such as "sale", hyphens, different generic Top-Level Domains ("gTLDs") and omitting spaces.

Moreover, the Respondents have no prior rights or legitimate interests in the Domain Names. The Complainant is not affiliated with the Respondents and has not licensed or otherwise permitted the Respondents to use any of its trademarks or to register domain names incorporating its Trademark. There is also no proof that the Respondents are commonly known by the term G FORE or any of the Domain Names. In addition to this, the Respondents are making neither a *bona fide* offering of goods or services, nor a legitimate, noncommercial fair use of the Domain Names.

In addition to this, the Domain Names have been registered and used in bad faith.

The first group of Domain Names contain the Trademark both within the domain names and on the resolving websites. This demonstrates that the Respondents are defrauding customers into believing that the goods being sold on these websites are authentic by creating a strong impression of affiliation with the Complainant. The second group of Domain Names resolves to inactive websites which is in itself evidence of use and registration in bad faith.

The Respondents chose to register many different domain names containing the element G FORE in which the Complainant has longstanding rights. Hence, there is no other explanation than that the Respondent targeted the Complainant for the primary intention of taking advantage of the good name and reputation of the Trademark.

B. Respondent

The Respondents did not reply to the Complainant's contentions. The Center only received one email communication from a third party mentioning that it had received the Center's written communication providing notice of the Complaint, but arguing that it was the victim of identity fraud otherwise unconnected to the disputed domain names.

6. Discussion and Findings

6.1 Preliminary Matter: Consolidation of Multiple Domain Names

The present proceeding involves the Complainant bringing a single Complaint relating to 54 domain names against 14 Respondents. The Complainant has made a request for consolidation and, in accordance with section 4.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), thus bears the *onus* of establishing that such a consolidation is justified.

The Panel is satisfied that such consolidation is justified, based on the evidence brought forward by the Complainant. The Complainant believes that the Domain Names are under common control, whereas all Domain Names have been registered in a coordinated pattern. 49 of the Domain Names have been registered in May and June 2023. All websites to which the first group of Domain Names resolves, have the same banner/layout. Lastly, the Domain Names have similar IP address ranges. Therefore, the commonalities documented between the Domain Names give the implication that the control of the Domain Names and subsequent profits resulting from this activity are received by a single entity.

The Panel also takes into account that the Respondents have not submitted any formal response and thus did not object against the consolidation. Further, the one response received was from an individual claiming the use of their identity for fraudulent purposes, suggesting that at least one disputed domain name was registered with fake details. Along these lines, the Panel notes that among the Respondents, the Center's written communication was only seemingly delivered to three of the disclosed addresses, one of which was reportedly used fraudulently, which suggests that the contact details disclosed and thus, most likely, the distinct names, are not accurate.

In light of these considerations, and it particular that the Respondents are most likely the same person, the Panel will therefore hereafter refer to them in singular as the "Respondent".

6.2 Substantive Matter

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 the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

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

The Panel finds the entirety of the Trademark is reproduced within the Domain Names. Accordingly, the Domain Names are identical or confusingly similar to the trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms such as "outlet" and "sale" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Domain Names and the Trademark for the purposes of the Policy. [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 the 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, 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 domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Names. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Names such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- Before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Names or a name corresponding to the Domain Names in connection with a *bona fide* offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- The Respondent is not making a legitimate noncommercial or fair use of the Domain Names, without intent for commercial gain to misleadingly divert consumers or to tarnish the Trademark. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- Regarding the fair use assessment, the Panel notably considers the fact that the Respondent has engaged in a pattern of registering domain names corresponding to marks held by the Complainant. [WIPO Overview 3.0](#), section 2.5.2.
- The record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Names.

UDRP 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. [WIPO Overview 3.0](#), section 2.13.1.

Further to the above, the first group of Domain Names resolves to websites where the Trademark is being used on the website when offering versions of the Complainant’s products, making customers believe that the goods being sold on these websites are authentic by creating a strong impression of affiliation with the Complainant. Given the fame of the Complainant and its Trademark, it is obvious that the Respondent is impersonating the Complainant.

Even if the so-called Oki Data test (*Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)) would have to be applied, the Respondent clearly fails this test anyway as in this case, as referred to above, the website to which the first group of Domain Names resolves, does not accurately or prominently disclose the Respondent’s relationship with the Complainant.

Moreover, the second group of Domain Names hosts inactive websites or websites that lack any substantive content. Therefore, the second group of Domain Names is also not used for a *bona fide* offering of goods and services or fair use pursuant to paragraph 4(c)(i) and (iii) of the Policy, and [WIPO Overview 3.0](#), section 2.2 and 2.4.

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 refers to its considerations under 6.2.B.

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.

In the present case, the Panel considers that the record of this case reflects that:

- The Respondent is diverting Internet customers from the Complainant's website to the Domain Names through the confusion caused by the similarity between the Trademark and the Domain Names.
- If the Respondent is actually selling goods, the Respondent is commercially gaining from the sales of the products being sold on the websites to which the first group of Domain Names.
- The Respondent fails to make active use of the second group of Domain Names and is therefore hosting inactive websites.
- Given the Complainant, the reputation of its Trademark, and the use to which the first group of Domain Names was put, it is evident that the Respondent had actual knowledge of the Complainant and its Trademark.

In the present case, the Panel notes that the Respondent registered 54 domain names that incorporate the Trademark and also uses the Trademark on the resolving websites for its banners and lay-out which sufficiently establishes evidence of bad faith. All the more so, because the Respondent is purportedly offering the Complainant's products.

Accordingly, in the Panel's view, the Respondent must have been aware of the existence of the Complainant's activities and rights at the time the Respondent registered the Domain Names. Consequently, the Respondent has registered and is using the Domain Names 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. [WIPO Overview 3.0](#), section 3.2.1.

UDRP 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 that the non-use of the second group of Domain Names 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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness and reputation of the Trademark, and the composition of the second group of Domain Names, and finds that in the circumstances of this case the passive holding of the second group of Domain Names does not prevent a finding of bad faith under the Policy.

UDRP 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) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the Domain Names constitutes bad faith under the Policy.

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 Domain Names, <gforeaustraliasale.com>, <gforecanadaoutlet.com>, <gforecanadasale.com>, <gfore-chile.com>, <gfore-danmark.com>, <gforespanaoutlet.com>, <gforefranceoutlet.com>, <gforegolfcanada.com>, <gforegolfchile.com>, <gforegolfdeutschland.com>, <gforegolf-france.com>, <gforegolffrance.com>, <gforegolfitalia.com>, <gforegolfnederland.com>, <gforeoutletchile.com>, <gforegolfnz.com>, <gforegolfschweiz.com>, <gforegolfshoesireland.com>, <gforegolfshoesuk.com>, <gforegolfturkiye.com>, <gforegolfusa.com>, <gfore-japan.com>, <gfore-nederland.com>, <gfore-nz.com>, <gforeoutletespana.com>, <gforeoutletfrance.com>, <gforeoutletnz.com>, <gforeoutletturkiye.com>, <gfore-romania.com>, <gforeshoescanada.com>, <gforeshoesphilippines.com>, <gforeshoessingapore.com>, <gforesingaporesale.com>, <gfore-southafrica.com>, <gforestorejapan.com>, <gfore-suomi.com>, <gfore-sverige.com>, <gfore-turkiye.com>, <gforeuksale.com>, <gforeusa-sale.com>, <gforeusasale.com>, <gforecanada.net>, <gforeschweiz.net>, <gforegolf-belgie.com>, <gforegolfbelgie.com>, <gforegolfsuomi.com>, <gforegolfuk.com>, <gforeindia.com>, <gforeirelandsale.com>, <gforemexicomx.com>, <gfore-osterreich.com>, <gforeoutletbelgie.com>, <gforesaleaustralia.com>, and <gforesaleusa.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: September 26, 2023