

## **ADMINISTRATIVE PANEL DECISION**

Fiskars Brands, Inc. v. PanTiantian  
Case No. D2023-3510

### **1. The Parties**

The Complainant is Fiskars Brands, Inc., United States of America (“United States”), represented by Quarles & Brady LLP, United States.

The Respondent is PanTiantian, China.

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

The disputed domain name <knivesgerber.com> is registered with OwnRegistrar, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 26, 2023. On August 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 18, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 the Respondent of the Complaint, and the proceedings commenced on August 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 11, 2023.

The Center appointed Adam Samuel as the sole panelist in this matter on September 18, 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 Complainant sells knives, tools, and equipment. The Complainant owns a number of trademarks for the name GERBER, including the United States trademark number 512677, registered on July 26, 1949. The Complainant registered the domain name <gerbergear.com> on October 6, 1999, through which it promotes and sells its products.

The disputed domain name was registered on February 13, 2023. The disputed domain name resolves to a website which appears to be offering to sell the Complainant's knives.

#### **5. Parties' Contentions**

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

The disputed domain name incorporates the entirety of the Complainant's GERBER mark and a descriptive term associated with the Complainant's products which are themselves sold on the website associated with the disputed domain name. The mere addition of the term "knives" does not sufficiently distinguish the disputed domain name from the Complainant's registered trademark, especially because this term describes the goods sold by the Complainant.

The Complainant is not affiliated with the Respondent and has not licensed or otherwise permitted the Respondent to use its GERBER trademark. The website to which the disputed domain name resolves falsely suggests that the Respondent is sponsored by, authorised by, or affiliated with the Complainant. There is no indication that the Respondent is commonly known by "Gerber" or any variation of it.

The Respondent knew of the Complainant's GERBER trademark prior to the registration of the disputed domain name. This is apparent from the Respondent's use of the website to which the domain name resolves to sell authentic or counterfeit Gerber products and the display of the Complainant's logo on the Respondent's website. The Respondent's website displays images taken from the Complainant's website. On the Respondent's website, the Respondent also indicates falsely that, by shopping with it, customers can ensure that they are "associated with a business founded on integrity".

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

The Respondent did not reply to the Complainant's contentions.

#### **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the 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 disputed domain name consists of the word "knives" which denotes one of the Complainant's main products, the Complainant's trademark and the generic Top-Level Domain ("gTLD") ".com". The gTLD is irrelevant here as it is a standard registration requirement. See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Section 1.8 of the [WIPO Overview 3.0](#) says:

“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.”

The addition of the word “knives” to the Complainant’s trademark, which describes a major product of the Complainant, does not detract from the confusing similarity of the disputed domain name with the Complainant’s trademark.

For all these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s trademark.

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

The Respondent is not called “knivesgerber” or anything similar. There is no evidence that the Complainant has ever authorised the Respondent to use its trademarks. The Respondent does not appear to have used the disputed domain name for any legitimate purpose.

Based on the available record, where the Complainant has made out a preliminary case that the Respondent lacks rights or legitimate interests, and in the absence of any response on this point, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#).

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

The Respondent is using the disputed domain name to sell what appear to be the Complainant’s products using the Complainant’s logo. The Respondent knew of the Complainant and its business when it registered the disputed domain.

The Respondent appears to have registered the disputed domain name in order to exploit the Complainant’s trademark and brand in order to sell knives without the Complainant’s authorisation.

In using the disputed domain name, the Respondent appears to have intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product on its website. This is evidence of registration and use in bad faith under paragraph 4(b)(iv) of the Policy.

For all these reasons, the Panel concludes, therefore, that the 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 <knivesgerber.com> be transferred to the Complainant.

*/Adam Samuel/*

**Adam Samuel**

Sole Panelist

Date: September 27, 2023