

## **ADMINISTRATIVE PANEL DECISION**

Government Employees Insurance Company v. song he  
Case No. D2023-4459

### **1. The Parties**

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

The Respondent is song he, China.

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

The disputed domain name <geicoauto.net> is registered with Gname 039 Inc (the “Registrar”).

### **3. Procedural History**

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 26, 2023. On October 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 31, 2023, the Registrar transmitted by email to the Center its verification response disclosing the name of the registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 31, 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 in English on November 3, 2023.

On October 31, 2023, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On November 1, 2023, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on November 10, 2023. In accordance with

the Rules, paragraph 5, the due date for Response was November 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 1, 2023.

The Center appointed Andrew Sim as the sole panelist in this matter on December 5, 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 is an insurance provider incorporated under the laws of the state of Nebraska, United States. It provides insurance services, including insurance brokerage and underwriting for automobiles, motorcycles, homeowners, etc., throughout the United States under the mark GEICO since at least 1948.

The Complainant is the owner of the trademark GEICO (the "Mark"), with registrations in various jurisdictions, including the following:

- (a) United States Patent and Trademark Office Registration No. 0763274, registered on January 14, 1964;
- (b) United States Patent and Trademark Office Registration No. 2601179, registered on July 30, 2002; and
- (c) International Registration No. 1178718, registered on September 4, 2013.

The Complainant has established a website located at "www.geico.com", which the Complainant uses to promote and sell its insurance services under the Mark. It also maintains a number of social media accounts under the Mark, including Facebook, Twitter, Instagram, TikTok, YouTube, and LinkedIn.

The disputed domain name was registered on October 8, 2023. At the time of the Complaint, the disputed domain name redirected Internet users to a website purportedly sponsored by the "Lottery Industry Supervision Board" and contains a list of hyperlinks that appear to promote gambling service providers. At the time of this decision, the disputed domain name resolves to a website which appears to be the copycat website of Xi'an University of Technology, in Xi'an, Shaanxi Province, China purportedly powered by an entity known as "太阳集团见好就收 9728" [Tai Yang Ji Tuan Jian Hao Jiu Shou 9728]. Nonetheless, the Panel notes that the official website of Xi'an University of Technology is located at "www.xaut.edu.cn".

#### 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, the Complainant contends that (i) the disputed domain name is identical or confusingly similar to the Mark in which the Complainant has rights, as it consists entirely of the Mark and the generic Top-Level Domain ".net" does not distinguish it from the Mark; (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name, and there is no evidence that the Respondent's use of the disputed domain name relates to a *bona fide* offering of goods or services, noting in particular that the disputed domain name resolves to a website which promotes gambling services; and (iii) the disputed domain name was registered and is being used in bad faith, evidenced by the Respondent's registration of the disputed domain name and use of the Mark, which is a well-known trademark, for commercial gain through the redirecting of Internet users.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the Respondent chose Roman letters for the disputed domain name, and that requiring the Complainant, which is a company based in the United States, to submit documents in Chinese would lead to unwarranted delay, cause the Complainant to incur translation expenses, and cause unfairness.

The Center has notified the Respondent in both Chinese and English of the language of the proceeding and commencement of the proceeding. The Respondent chose not to make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **6.2 Substantive Issues**

#### **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 mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms may bear on assessment of the second and third elements, the Panel finds that the addition of the term "auto" here does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy.

<https://www.wipo.int/amc/en/domains/search/overview3.0/>

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 the disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. 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 disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant ([WIPO Overview 3.0](#), section 2.5.1). In particular, the insurance services provided by the Complainant under the Mark cover insurance brokerage and underwriting for automobiles. In this context, the term “auto” is capable of meaning “automobile” and/or “automotive”.

Further, the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services, or a legitimate noncommercial or fair use. As submitted by the Complainant, the disputed domain name redirected Internet users to a platform which promotes gambling services. As at the date of this decision, the Panel observes that the disputed domain name resolves to a website which appears to be passing off as the official website of Xi’an University of Technology, in Xi’an, Shaanxi Province, China with the same school logo placed at the top and a near identical webpage design. Some links embedded in the website redirect Internet users to the official website of the University at “www.xaut.edu.cn”.

While the Complainant has not claimed that the Respondent’s use of the disputed domain name involves illegal activity, the Panel finds no legitimate reason why the Respondent should use the disputed domain name to host a website which is a replica of the University’s official website. The abovementioned uses, including the use to promote gambling services and the use which potentially involves passing off, clearly do not constitute *bona fide* offering nor legitimate noncommercial or fair use.

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, such as the content of any website to

which the domain name directs, including any changes in such content and the timing thereof. [WIPO Overview 3.0](#), section 3.2.1.

As at the date of the Complaint, the disputed domain name directed Internet users to a website that appears to promote gambling service providers. Such use of the Complainant's Mark in the inherently misleading disputed domain name to promote services completely unrelated to the Complainant is evidence of bad faith both in registration and in use. See *Sanofi v. Yansheng zhang, GNAME.COM PTE. LTD*, WIPO Case No. [D2021-1751](#).

As at the date of this decision, the website to which the disputed domain name resolves has changed. As noted above, the Panel observes that the disputed domain name currently directs to a website which appears to be passing off as a university's official website. Panels have held that the use of a domain name for illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. While illegality activity was not pleaded in the Complaint, the Panel notes that the current use of the disputed domain name potentially involves passing off, and thus constitutes use in bad faith.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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

## 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 <geicoauto.net> be transferred to the Complainant.

*/Andrew Sim/*

**Andrew Sim**

Sole Panelist

Date: December 18, 2023