

## ADMINISTRATIVE PANEL DECISION

Peter Millar LLC v. Zhang Qiang

Case No. D2024-0644

### 1. The Parties

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

The Respondent is Zhang Qiang, China.

### 2. The Domain Names and Registrar

The disputed domain names <gforeaustralia.net>, <gforebotycz.com>, <gforebrandromania.com>, <gforecanada.org>, <gforedanmark.net>, <gforeireland.net>, <gforeisrael.com>, <gforejapan.net>, <gforemexico.net>, <gforenederland.net>, <gforenorge.net>, <gforeoutletchile.net>, <gforeparis.com>, <gforesalebrasil.com>, <gforesaleeesti.com>, <gforesalegreece.com>, <gforesalehungary.com>, <gforesaleisrael.com>, <gforesalelatvija.com>, <gforesalelietuva.com>, <gforesaleportugal.com>, <gforesaleslovenija.com>, <gforesalesrbija.com>, <gforesaleuae.com>, <gforeschweiz.org>, <gforeshoesbelgique.com>, <gforeshoeshrvatska.com>, <gforeshoeskuwait.com>, <gforeshoessuisse.com>, <gforesouthafrica.net>, <gforesuomi.net>, and <gforeuk.net> are registered with Paknic (Private) Limited (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 12, 2024. On February 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 14, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Whois Agent, Web Domains By Proxy, Lara Miah) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 14, 2024, 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 February 19, 2024.

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 February 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 13, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on March 15, 2024. 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**

According to information in the Complaint, the Complainant owns the brands G/FORE and G FORE, a golf inspired sportswear and accessories brand for men and women. Its collection includes premium golf gloves and has expanded to include golf shoes, accessories, and apparel.

The Complainant is the holder of a number of trademarks for G FORE and G/FORE, including the United States trademark G FORE No. 4035425, registered on October 4, 2011, designating goods in international class 28, the European Union trademark G FORE No. 011699618, registered on August 9, 2013, designating goods in international classes 25 and 28, and the International trademark G/FORE No. 1526743, registered on March 9, 2020, designating goods in international classes 25 and 28. The Complainant's products can be found online at its websites "www.gfore.com" or "www.gfore.co.uk".

The disputed domain names were registered as follows:

- the disputed domain names <gforecanada.org>, and <gforeschweiz.org> were registered on July 4, 2023;
- the disputed domain names <gforeaustralia.net>, <gforedanmark.net>, <gforeireland.net>, <gforejapan.net>, <gforemexico.net>, <gforenederland.net>, <gforenorge.net>, <gforeoutletchile.net>, <gforesuomi.net>, <gforesouthafrica.net>, and <gforeuk.net> were registered on July 5, 2023;
- the disputed domain names <gforebotycz.com>, <gforebrandromania.com>, <gforesalebrasil.com>, <gforesaleeesti.com>, <gforesalegreece.com>, <gforesalehungary.com>, <gforesaleisrael.com>, <gforesalelatvija.com>, <gforesalelietuva.com>, <gforesaleportugal.com>, <gforesaleslovenija.com>, <gforesalesrbija.com>, <gforesaleuae.com>, <gforeshoesbelgique.com>, <gforeshoeshrvatska.com>, <gforeshoeskuwait.com>, and <gforeshoessuisse.com> were registered on July 7, 2023;
- the disputed domain names <gforeisrael.com> and <gforeparis.com> were registered on October 16 and 26, 2023, respectively.

At the time of filing of the Complaint, all the disputed domain names resolved to websites which appeared to have offered G FORE products for sale at discounted prices, displaying the Complainant's trademark and logo. At the date of the Decision, the disputed domain names either resolve to websites which appear to offer G FORE products for sale at discounted prices or to warning pages warning of a "Dangerous site".

#### **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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the Complainant's G FORE mark. The disputed domain names incorporate the G FORE mark in its entirety, adding various geographical terms and abbreviations such as: "Australia", "Belgique" (Belgium), "Brasil", "Canada", "Chile", "CZ", "Danmark", "Eesti" (Estonia), "Greece", "Hrvatska" (Croatia), "Hungary", "Ireland", "Israel", "Japan", "Kuwait", "Latvija", "Lietuva" (Lithuania), "Mexico", "Nederland", "Norge", "Paris", "Portugal", "Rbija" (Serbia), "Romania", "Schweiz" (Switzerland), "Slovenija", "South Africa", "Suisse", "Suomi" (Finland), "UAE", "UK" and terms such as: "boty" (Czech for boots), "brand", "outlet", "sale", and "shoes".

As regards the second element, the Complainant argues that the Respondent is not commonly known by the disputed domain names, and there is no evidence that at the time the Respondent registered the disputed domain names it had trademark or intellectual property rights in either. The Complainant is not affiliated with the Respondent. Moreover, the Complainant has not licensed the mark G FORE to the Respondent, and the Complainant has not granted the Respondent any right, authorization, or permission to use the Complainant's G FORE marks in a domain name or in any other capacity. The Respondent is offering men and women's golf apparel and accessories on the websites at the disputed domain names, where the Complainant's G/FORE, G FORE, GGGG design mark and copyrighted images are also displayed. The use of the Complainant's marks both within the disputed domain names and on the Respondent's websites is evidence that the Respondent is defrauding customers into believing that the goods being sold on the Respondent's website are authentic by creating a strong impression of affiliation with the Complainant.

With respect to the third element, the Complainant argues that given the worldwide fame of the Complainant and its marks, and the fact that the disputed domain names incorporate the G FORE mark verbatim and the websites display of the G FORE, G/FORE and GGGG marks and copyrighted images, it is obvious that the Respondent had actual knowledge of the Complainant and its G FORE mark. The Respondent is commercially gaining from the sales of clothing and accessories being sold on the websites to which the disputed domain names resolve. Moreover, the Respondent has engaged in a pattern of registering domain names that incorporate well-known third-party trademarks.

## **B. Respondent**

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

## **6. Discussion and Findings**

No response has been received from the Respondent in this case. However, given that the Complaint was sent to the relevant addresses disclosed by the Registrar, the Panel considers that this satisfies the requirement in paragraph 2(a) of the Rules to "employ reasonably available means calculated to achieve actual notice". Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

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 names are 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 names, and (iii) the disputed domain names have been registered and are being used in bad faith.

## **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.

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 entirety of the G FORE mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Each disputed domain name also includes one or two added term(s), mostly geographical locations, or terms in the area of business of the Complainant, which may bear on assessment of the second and third elements, but does not in the view of the Panel prevent the Complainant's trademark from being recognizable within the disputed domain names. [WIPO Overview 3.0](#), section 1.8.

It is the settled view of panels applying the Policy that the generic Top-Level Domains ("gTLD") (here ".net", ".com", and ".org") may be disregarded under the first element test.

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.

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 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 disputed domain names such as those enumerated in the Policy or otherwise.

There is no evidence that the Respondent is using the disputed domain names in connection with a bona fide offering of goods or services.

Rather, according to the un rebutted evidence provided by the Complainant, the disputed domain names resolved to websites which appeared to have offered G FORE products for sale at discounted prices, reproducing the Complainant's trademark and logo, as well as the Complainant's product images. At the date of the Decision, a large part of the disputed domain names resolve to the same websites, and the rest of the disputed domain names resolve to warning pages stating, "Dangerous site". Under these circumstances, it is reasonable to infer that the products offered on the websites at the disputed domain names are most likely counterfeits of the Complainant's products. Even if the products are genuine, the lack of a prominent and accurate disclaimer on the website at the disputed domain names as to their relationship with the trademark owner or the lack thereof, would falsely suggest to Internet users that the websites to

which the disputed domain names resolve are owned by the Complainant or at least affiliated to the Complainant, contrary to the fact (as per the principles outlined in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)).

With respect to the disputed domain names which resolve to warning pages stating, “Dangerous site”, there is no evidence that the Respondent is using those disputed domain names in connection with a bona fide offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of those disputed domain names within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. The warning pages rather indicate that such disputed domain names may be being used to perpetrate illegal activity and thus, do not favor a finding of any rights or legitimate interests on behalf of the Respondent.

The Respondent is an individual named “Zhang Qiang” and there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

Furthermore, the nature of the disputed domain names, that include the Complainant’s trademark in its entirety, together with a term or terms related to a geographical location or the Complainant’s business, carries a risk of implied affiliation and cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

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. [WIPO Overview 3.0](#), section 3.2.1.

According to the unrebutted assertions of the Complainant, its G FORE trademark was widely used in commerce well before the registration of the disputed domain names. The disputed domain names are confusingly similar with the Complainant’s trademark. The disputed domain names resolved to websites reproducing the Complainant’s trademark and purportedly offering for sale the Complainant’s products but at lower prices. The Respondent provided no explanations for why he registered the disputed domain names. Under these circumstances it is reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of the Complainant’s trademarks, and to target those trademarks.

At the date of the Decision, the majority of the inherently misleading disputed domain names resolve to websites, which display the Complainant’s trademark, logo, and product images, ostensibly offering the Complainant’s products at lower prices without any accurate and prominent disclaimers on the websites regarding the relationship between the Respondent and the Complainant. As such, the disputed domain names suggest affiliation with the Complainant in order to attract consumers for commercial gain.

The Respondent’s bad faith registration and use of the disputed domain names can also be inferred from the current warnings on the websites of “Dangerous sites” found on some of the disputed domain names.

Also, according to unrebutted evidence submitted by the Complainant, the Respondent has exhibited a pattern of bad faith registration and use of domain names that contain well-known trademarks. See, for example, *Compagnie Générale des Etablissements Michelin v. Zhangqiang*, WIPO Case No. [D2018-1573](#), and *Archer-Daniels-Midland Company v. Zhang Qiang*, WIPO Case No. [D2015-1758](#). Such pattern of cybersquatting is strong evidence of bad faith. Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant’s contentions or provide any evidence of actual or contemplated good-faith use.

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 names <gforeaustralia.net>, <gforebotycz.com>, <gforebrandromania.com>, <gforecanada.org>, <gforedanmark.net>, <gforeireland.net>, <gforeisrael.com>, <gforejapan.net>, <gforemexico.net>, <gforenederland.net>, <gforenorvege.net>, <gforeoutletchile.net>, <gforeparis.com>, <gforesalebrasil.com>, <gforesaleeesti.com>, <gforesalegreece.com>, <gforesalehungary.com>, <gforesaleisrael.com>, <gforesalelatvija.com>, <gforesalelietuva.com>, <gforesaleportugal.com>, <gforesaleslovenija.com>, <gforesalesrbija.com>, <gforesaleuae.com>, <gforeschweiz.org>, <gforeshoesbelgique.com>, <gforeshoeshrvatska.com>, <gforeshoeskuwait.com>, <gforeshoessuisse.com>, <gforesouthafrica.net>, <gforesuomi.net>, and <gforeuk.net> be transferred to the Complainant.

/Mihaela Maravela/

**Mihaela Maravela**

Sole Panelist

Date: March 28, 2024