

## **ADMINISTRATIVE PANEL DECISION**

GERFLOR v. Stephen Wells and sharma hornessed  
Case No. D2024-2061

### **1. The Parties**

The Complainant is GERFLOR, France, represented by Cabinet Germain & Maureau, France.

The Respondents are Stephen Wells, United States of America (“United States”) and sharma hornessed, United States.

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

The disputed domain names <gerflorrusa.com> and <gerflorusacareer.com> (the “Domain Names”) are registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 16, 2024. On May 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On May 20, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Unknown) and contact information in the Complaint.

The Center sent an email communication to the Complainant on May 21, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the Domain Names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that the Domain Names are under common control. The Complainant filed an amended Complaint on May 22, 2024.

The Center verified that 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 May 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 19, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on June 24, 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 to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

For over 80 years, the Complainant has been crafting, producing, promoting, and distributing flooring solutions. It offers brands such as Gerflor, Taraflex and Sportcourt. It has customers worldwide, and more than 5,000 employees in over 120 countries. In 2023, the Complainant's turnover was 1.5 billion euros.

The Complainant owns trademarks containing GERFLOR, such as International trademark with registration number 448867, registered on November 8, 1979, and United States trademark with registration number 3862516, registered on October 19, 2010. The Complainant owns several domain names, such as <gerflor.com> and <gerflorusa.com>, both registered more than 20 years ago.

According to the Complainant, the Domain Names were registered respectively on January 9, 2024 and April 23, 2024. At the time of the Complaint, one of the Domain Names, <gerflorusacareer.com> redirected to a registrar's holding page, and the other domain name <gerflorusa.com>, resolved to an inactive website. At the time of drafting the Decision, the Domain Names resolved to error pages.

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

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

The Complainant argues that the Domain Names are under common control, and consolidation would be fair and equitable. Both Domain Names consist of a reproduction of the Complainant's trademark GERFLOR with the addition of "usa", and the letter "r" or the additional term "career" for one of the Domain Names. The Domain Names have been registered only four months apart at the same Top-Level Domain ("TLD"), and with the same registrar. Both have listed fake registrant data.

The Complainant provides evidence of trademark registrations that pre-date the Respondent's registration of the Domain Names. The Complainant argues that the Domain Names incorporate the Complainant's trademark. The addition of the terms "usa", and the letter "r" or the term "career" does not prevent confusing similarity.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Names. The Complainant asserts that the Respondent has not been granted any authorization to use the Complainant's trademark. The Complainant has prior rights in the trademark that dates back prior to the Respondent's registration of the Domain Names.

The Complainant argues that the Domain Names are registered and used in bad faith for activities that harm and tarnish the Complainant's trademark. The Respondent has configured email exchanges ("MX") servers, and the Complainant argues this is most likely done to create email accounts to deceive individuals into making payments or submit personal information. Finally, the Complainant argues that the fact that one of the Domain Names was registered just few hours after the take down request for the other, further points to fraudulent intent.

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

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

## **6. Discussion and Findings**

### **6.1. Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules. The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards to common control, the Panel notes that both Domain Names consist of the Complainant's trademark GERFLOR with the addition of "usa", and the letter "r" o the term "career". The Domain Names have a similar naming pattern and have been registered four months apart with the same Registrar. Both appear to have fake registrant data. The second domain name was registered just hours after the take down request for the first domain name.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the dispute regarding the nominally different disputed domain name registrants in a single proceeding and will be jointly referred to as the "Respondent" unless otherwise indicated.

### **6.2. Substantial Issues**

#### **A. Identical or Confusingly Similar**

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 Domain Name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has established that it has rights in the trademark GERFLOR. The Domain Names incorporate the Complainant's trademark with the additions of "usa" and the letter "r" or the term "career". The additions do not prevent a finding of confusing similarity between the Domain Names and the trademark. [WIPO Overview 3.0](#), section 1.8. When assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"). [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Names are confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which a 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.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Names as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or 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. Finally, the Panel finds that the composition of the Domain Names carries a risk of implied affiliation with the Complainant.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Names in accordance with paragraph 4(a)(ii) of the Policy.

### **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.

The Respondent most likely knew of the Complainant when he registered the Domain Names. It follows from the composition of the Domain Names. The Respondent's use of the Domain Names to set up email accounts may indicate fraudulent intent. The Respondent has not offered any explanation as to why it registered the Domain Names, nor provided any evidence of actual or contemplated good faith use of the Domain Names. The non-use of the Domain Names does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

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 the Domain Names <gerflorrusa.com> and <gerflorusacareer.com> transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: July 1, 2024