

ADMINISTRATIVE PANEL DECISION

Peter Millar, LLC v. Client Care, Web Commerce Communications Limited,
ZhouRunFa, ZhouRunFa, Birgit, Fuchs
Case No. D2023-2147

1. The Parties

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

The Respondents are Client Care, Web Commerce Communications Limited, Malaysia, and ZhouRunFa, ZhouRunFa, China, and Birgit, Fuchs, Germany.

2. The Domain Names and Registrars

The disputed domain names <gforeargentina.com>, <gfore-australia.com>, <gforebelgie.com>, <gfore-canada.com>, <gforechile.com>, <gforedanmark.com>, <gfore-deutschland.com>, <gfore-espana.com>, <gfore-france.com>, <gforegolfshoescanada.com>, <gforegreece.com>, <gfore-ireland.com>, <gfore-italia.com>, <gfore-mexico.com>, <gforenederland.com>, <gforenorge.com>, <gforenz.com>, <gforeosterreich.com>, <gforeoutletjapan.com>, <gfore-philippines.com>, <gforeromania.com>, <gfore-schweiz.com>, <gfore-singapore.com>, <gforesouthafrica.com>, <gforesuomi.com>, <gforeturkiye.com>, <gfore-uk.com>, <gfore-usa.com>, <g4caoutlet.com> are registered with Alibaba.com Singapore E-Commerce Private Limited.

The disputed domain name <gforepolska.com> is registered with Mat Bao Corporation (the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 11, 2023. On May 16, and May 24, 2023, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names. On May 17, and May 24, 2023, the Registrars 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 (Domain Admin, Whoisprotection.cc) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 24, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint or to file a separate complaint for each of the disputed domain names. The Complainant filed two amended Complaints on May 29, and June 5, 2023.

The Center verified that the Complaint together with the amended Complaints 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 Respondents of the Complaint, and the proceedings commenced on June 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 26, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on June 28, 2023.

The Center appointed Edoardo Fano as the sole panelist in this matter on July 7, 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.

The Panel has not received any requests from the Complainant or the Respondents regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), "to employ reasonably available means calculated to achieve actual notice to [the] Respondent". Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a response from the Respondents.

The language of the proceeding is English, being the language of the Registration Agreements, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainant is Peter Millar, LLC, a United States company operating in the field of golf fashion and owning several trademark registrations for G FORE, among which:

- United States Trademark Registration No. 4,035,425 for G FORE, registered on October 4, 2011;
- European Union Trade Mark Registration No. 011699618 for G FORE, registered on August 9, 2013;
- Chinese Trademark Registration No. 12973764 for G FORE, registered on January 14, 2015;
- Malaysian Trademark Registration No. TM2020004992 for G FORE, registered on March 11, 2020.

The Complainant operates on the Internet, its main website being "www.gfore.com".

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain names were registered on the following dates: <gforeargentina.com> on June 8, 2022, <gfore-australia.com> on October 9, 2022, <gforebelgie.com> on June 8, 2022, <gfore-canada.com> on October 21, 2022, <gforechile.com> on June 9, 2022, <gforedanmark.com> June 10, 2022, <gfore-deutschland.com> on October 21, 2022, <gfore-espana.com> on October 24, 2022, <gfore-france.com> on October 21, 2022, <gforegolfshoescanada.com> on June 9, 2022, <gforegreece.com> on June 11, 2022, <gfore-ireland.com> on October 9, 2022, <gfore-italia.com> on October 21, 2022, <gfore-mexico.com> on October 21, 2022, <gforenederland.com> on June 8, 2022, <gforenorge.com> on June 10, 2022, <gforenz.com> on May 5, 2022, <gforeosterreich.com> on June 8, 2022, <gforeoutletjapan.com> on October 9, 2022, <gfore-philippines.com> on October 21, 2022, <gforeromania.com> on June 11, 2022, <gfore-schweiz.com> on October 21, 2022, <gfore-singapore.com>

on October 21, 2022, <gforesouthafrica.com> on May 5, 2022, <gforesuomi.com> on June 9, 2022, <gforeturkiye.com> on June 11, 2022, <gfore-uk.com> on October 9, 2022, <gfore-usa.com> on March 23, 2023, <g4caoutlet.com> on August 11, 2022 and <gforepolska.com> on June 9, 2022. When the Complaint was filed, all the disputed domain names, except the disputed domain name <gforedanmark.com> which is inactive, redirected to identical websites in which the Complainant's trademarks G FORE, G/FORE and GGGG logo were reproduced, and the same products as the Complainant's were purportedly offered for sale at a very lower price.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain names are confusingly similar to its trademark G FORE, as the disputed domain names wholly incorporate the Complainant's trademark, or, in the case of the disputed domain name <g4caoutlet.com>, the word "fore" of the Complainant's trademark is merely replaced with the number "4".

Further to section 6.1 below, the Complainant argues that the disputed domain names are under common control and thus addresses the Respondents in the singular. The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain names since it has not been authorized by the Complainant to register the disputed domain names or to use its trademark within the disputed domain names, it is not commonly known by the disputed domain names and it is not making either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain names: all the disputed domain names, except the disputed domain name <gforedanmark.com> which is inactive, are resolving to identical websites, purportedly offering for sale the same products sold by the Complainant, with the aim to divert consumers and deceive them into believing that the disputed domain names are associated to the Complainant.

The Complainant submits that the Respondent has registered the disputed domain names in bad faith, since the Complainant's trademark G FORE is known in the field of golf fashion. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain names and the Complainant contends that the use of the disputed domain names with the purpose to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites, qualifies as bad faith registration and use.

B. Respondents

The Respondents have made no reply to the Complainant's contentions and are in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

6. Discussion and Findings

6.1 Consolidation of Multiple Respondents

The Complainant has requested consolidation of multiple Respondents and stated that all the disputed domain names belong to the same person or organization. No objection to this request was made by the Respondents.

Pursuant to the [WIPO Overview 3.0](#), section 4.11.2, “[w]here a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario”. The Panel may consider a range of factors to determine whether consolidation is appropriate, such as examining relevant registrant contact information, and any naming patterns in the disputed domain names, or other evidence of respondent affiliation that indicate common control of the disputed domain names.

The Complainant states that all the disputed domain names incorporate its trademark G FORE as the dominant portion, are similarly constructed, are resolving to identical websites, all of them except one are registered with the same Registrar, 27 of them have the same registrant Client Care, Web Commerce Communications Limited, 26 of them are registered in the same two months (namely June 2022 and October 2022), they all have a similar IP address range, and two Respondents, namely Client Care, Web Commerce Communications Limited and Birgit Fuchs, have the same phone number.

The Panel notes that all the disputed domain names have been registered in less than a year period of time, namely between May 5, 2022 and March 23, 2023, they follow a very similar naming pattern and all of them, except one, resolve to identical websites, in which the same products as the Complainant’s are purportedly offered for sale and the Complainant’s trademarks and logo are reproduced. The Panel finds that there is plausible evidence that the disputed domain names are subject to common control, and that it would be procedurally efficient, fair, and equitable to all Parties to accept the Complainant’s consolidation request. The Panel further notes that the Respondents did not object to the consolidation request. The Panel therefore accepts the Complainant’s consolidation request. Hereinafter, the Panel will refer to the Respondents in the singular, *i.e.*, “the Respondent”.

6.2 Substantive Issues

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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

The Panel finds that the Complainant is the owner of the trademark G FORE and that the disputed domain names are confusingly similar to the trademark G FORE.

Regarding the addition of the terms “argentina”, “australia”, “belgie”, “canada”, “chile”, “danmark”, “deutschland”, “espana”, “france”, “golf”, “shoes”, “canada”, “greece”, “ireland”, “italia”, “mexico”, “nederland”, “norge”, “nz”, “osterreich”, “outlet”, “japan”, “philippines”, “romania”, “schweiz”, “singapore”, “southafrica”, “suomi”, “turkiye”, “uk”, “usa”, “ca”, “outlet”, “polska” and of a hyphen, the Panel notes that it is now well established that the addition of other terms (whether descriptive, geographical terms, letters, or otherwise) to

a domain name does not prevent a finding of confusing similarity between the disputed domain name and the trademark. The additional terms do not therefore prevent the disputed domain names from being confusingly similar to the Complainant's trademark. See [WIPO Overview 3.0](#), section 1.8.

In case of the disputed domain name <g4caoutlet.com>, the dominant part of the disputed domain name is highly similar to the pronunciation of the Complainant's G FORE trademark. The content of the website associated with the disputed domain name confirms the confusing similarity with the Complainant's trademark. See [WIPO Overview 3.0](#), section 1.15.

It is also well accepted that a gTLD, in this case ".com", is typically ignored when assessing the similarity between a trademark and a domain name. See [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Complainant has therefore met its burden of proving that the disputed domain names are confusingly similar to the Complainant's trademark, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the Complainant to prove that the Respondent has no rights or legitimate interests in the disputed domain names.

The Respondent may establish rights or legitimate interests in the disputed domain names by demonstrating in accordance with paragraph 4(c) of the Policy any of the following circumstances, in particular but without limitation:

"(i) before any notice to you [respondent] of the dispute, your use of, or demonstrable preparations to use, the domain name[s] or a name corresponding to the domain name[s] in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name[s], even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name[s], without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

According to paragraph 4(a) of the Policy, the Complainant has the burden of proving the three elements of the Policy. However, satisfying the burden of proving a lack of the Respondent's rights or legitimate interests in respect of the disputed domain names according to paragraph 4(a)(ii) of the Policy is potentially quite difficult, since proving a negative circumstance is generally more complicated than establishing a positive one. As such, it is well accepted that it is sufficient for the Complainant to make a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names in order to shift the burden of production to the Respondent. If the Respondent fails to demonstrate rights or legitimate interests in the disputed domain names in accordance with paragraph 4(c) of the Policy or on any other basis, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant in its Complaint, and as set out above, has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names. It asserts that the Respondent, who is not currently associated with the Complainant in any way, is not using the disputed domain names for a legitimate noncommercial or fair use or in connection with a *bona fide* offering of goods or services. All the disputed domain names, except the disputed domain name <gforedanmark.com> which is inactive, are resolving to identical websites, purportedly offering for sale the same products sold by the Complainant, with the aim to divert consumers in an attempt to pass off as the Complainant while seeking a commercial gain.

The *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent to demonstrate that it has rights or legitimate interests in the disputed domain names. However,

the Respondent has not presented any evidence of any rights or legitimate interests it may have in the disputed domain names.

Should the Complainant's products sold on the websites to which the disputed domain names (except the inactive disputed domain name <gforedanmark.com>) are directing Internet users be genuine products, legitimately acquired by the Respondent, the question that would arise is whether the Respondent would therefore have a legitimate interest in using the disputed domain names that are confusingly similar to the Complainant's trademark in circumstances that are likely to give rise to confusion.

According to the current state of UDRP decisions in relation to the issue of resellers as summarized in the [WIPO Overview 3.0](#), section 2.8.1:

"[...] resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a *bona fide* offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "Oki Data test", the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to 'corner the market' in domain names that reflect the trademark."

This summary is based on the UDRP decision in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

Even if the products sold by the Respondent were the Complainant's genuine products, from inspection of the Respondent's websites, the Panel finds that the use of the Complainant's trademarks G FORE, G/FORE and GGGG logo on the homepage and the lack of any disclaimer would falsely suggest to Internet users, under the Oki Data principles (see above), that the websites to which the disputed domain names resolve are owned by the Complainant or at least affiliated to the Complainant.

The Panel therefore concludes that the disputed domain names are not being used in connection with a *bona fide* offering of goods or services.

Moreover, the Panel finds that the composition of the disputed domain names (except <g4caoutlet.com>) carries a risk of implied affiliation as they effectively impersonate or suggest sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Based on the facts of this case, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names.

The Panel therefore finds that paragraph 4(a)(ii) of the Policy has been satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that "[f]or the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that [the respondent has] registered or [has] acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of the complainant, for valuable consideration in excess of [its] documented out-of-pocket costs directly related to the domain name; or

- (ii) [the respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or
- (iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] web site or location or of a product or service on [the respondent's] web site or location".

Regarding the registration in bad faith of the disputed domain names, the reputation of the Complainant's trademark G FORE in the field of golf fashion is clearly established and the Panel finds that the Respondent likely knew of the Complainant, and deliberately registered the disputed domain names in bad faith, especially because all the disputed domain names except one (namely <gforedanmark.com>) resolve to websites very similar to the Complainant's official website, consisting of advertising for the purported sale of the same products as the Complainant's, prominently reproducing the Complainant's trademarks G FORE, G/FORE and GGGG logo.

The Panel further notes that the disputed domain names are also being used in bad faith since the Respondent is trying to attract Internet users to its websites by creating likelihood of confusion with the Complainant's trademark as to the disputed domain names' source, sponsorship, affiliation or endorsement, in order to purportedly sell the same products as the Complainant's, an activity detrimental to the Complainant's business.

The above suggests to the Panel that the Respondent intentionally registered and is using the disputed domain names in order both to disrupt the Complainant's business, in accordance with paragraph 4(b)(iii) of the Policy, and to attract, for commercial gain, Internet users to its websites in accordance with paragraph 4(b)(iv) of the Policy.

As regards the disputed domain name <gforedanmark.com>, which resolves to an inactive website, the Panel considers that bad faith may exist even in cases of so-called "passive holding", as found in the landmark UDRP decision *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). In the circumstances of this case, the Panel finds that such passive holding does not prevent a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3. In support thereof, the Panel considers as relevant the notoriety of the Complainant's trademark in the field of golf fashion, the identical incorporation of said distinctive trademark, the Respondent's failure to formally participate, and the Respondent's concealing its identity.

Furthermore, the Panel considers that the nature of the inherently misleading disputed domain names, which include the Complainant's trademark in its entirety with the mere addition of the terms "argentina", "australia", "belgie", "canada", "chile", "danmark", "deutschland", "espana", "france", "golf", "shoes", "canada", "greece", "ireland", "italia", "mexico", "nederland", "norge", "nz", "osterreich", "outlet", "japan", "philippines", "romania", "schweiz", "singapore", "southafrica", "suomi", "turkiye", "uk", "usa", "ca", "outlet", "polska" and of a hyphen, further supports a finding of bad faith. See, [WIPO Overview 3.0](#), section 3.2.1.

The Panel finds that the Complainant has presented evidence to satisfy its burden of proof with respect to the issue of whether the Respondent has registered and is using the disputed domain names in bad faith.

The Panel therefore finds that paragraph 4(a)(iii) of the Policy has been satisfied.

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, <gforeargentina.com>, <gfore-australia.com>, <gforebelgie.com>, <gfore-canada.com>, <gforechile.com>, <gforedanmark.com>, <gfore-deutschland.com>, <gfore-espana.com>, <gfore-france.com>, <gforegolfshoescanada.com>, <gforegreece.com>, <gfore-ireland.com>, <gfore-italia.com>, <gfore-mexico.com>, <gforenederland.com>, <gforenorvege.com>, <gforenz.com>, <gforeosterreich.com>, <gforeoutletjapan.com>, <gfore-philippines.com>, <gforeromania.com>, <gfore-schweiz.com>, <gfore-singapore.com>, <gforesouthafrica.com>, <gforesuomi.com>, <gforeturkiye.com>, <gfore-uk.com>, <gfore-usa.com>, <g4caoutlet.com> and <gforepolska.com>, be transferred to the Complainant.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: July 21, 2023