

## **ADMINISTRATIVE PANEL DECISION**

Peter Millar LLC v. Web Commerce Communications Limited  
Case No. D2022-3026

### **1. The Parties**

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

The Respondent is Web Commerce Communications Limited, Malaysia.

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

The disputed domain name <gforesverige.com> (the “Domain Name”) is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 17, 2022. On August 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 19, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 23, 2022, 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 amendment to the Complaint on August 23, 2022.

The Center verified that the Complaint together with the amendment to 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 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 15, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on September 30, 2022. 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 a subsidiary of the luxury goods group Richemont. It was founded in 2001 and is a premium American lifestyle brand with products including casual sportswear and performance golf attire for men and women. In 2018, the Complainant acquired the G/FORE brand that began with a collection of premium golf gloves and has expanded to include golf shoes, accessories and apparel.

The Complainant is the proprietor of a number of trademarks comprising G/FORE and G FORE including United States trademark number 4035425 G FORE registered on October 4, 2011, and Malaysia trademark number TM2020004992 G FORE registered on November 3, 2020. The Complainant operates a website at "www.gfore.com" providing information about the Complainant and promoting its products.

The Domain Name was registered on May 12, 2022. It does not currently resolve to an active website, but webpages cached by Google demonstrate that it previously resolved to a website offering for sale a wide range of what purported to be the Complainant's products.

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

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

The Complainant contends that the Domain Name is confusingly similar to its G FORE trademark (the "Mark"), that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

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

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

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

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

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

The Complainant has uncontested rights in the Mark, both by virtue of its trademark registrations and as a result of the goodwill and reputation acquired through its use of the Mark over a number of years. Ignoring the generic Top-Level Domain ("gTLD") ".com", the Domain Name comprises the entirety of the Mark (omitting the space), together with the geographic term "sverige", the Swedish language word for Sweden. In the view of the Panel, this addition does not prevent a finding of confusing similarity between the Domain Name and the Mark. Accordingly, the Panel finds that the Domain Name is confusingly similar to a

trademark in which the Complainant has rights.

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

The Respondent has used the Domain Name for a website offering for sale what purport to be the G FORE products of the Complainant. The website featured unauthorized copies of images of what purported to be the Complainant's products. The Respondent is not an authorized sales agent of the Complainant and has not been authorized by the Complainant to use the Mark.

Although there has been no Response by the Respondent, the Panel has in mind that previous UDRP panels have recognized that resellers using a domain name containing the complainant's trademark to undertake sales of the complainant's goods may be making a *bona fide* offering of goods and thus have a legitimate interest in such domain name. The *Okidata*<sup>1</sup> test as set out in section 2.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") outlines the following cumulative requirements for such a finding:

- (i) the respondent must actually be offering the goods at issue;
- (ii) the respondent must use the site only to sell the trademarked goods;
- (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.

The website at the Domain Name offered what purport to be the Complainant's goods, but gave no information whatsoever as to the identity of the operator of the website or seller of the products on offer and failed to make clear in an accurate and prominent way, or at all, the Respondent's relationship (or absence of relationship) with the Complainant. The third requirement is not therefore met. The false implication of the text of the website was that the Respondent was the authorized reseller of the Complainant's goods in Sweden.

Accordingly, the Panel does not consider that the Respondent has met the *Okidata* test, and finds that there is a *prima facie* case that the Respondent does not have any rights or legitimate interests in respect of the Domain Name. Notwithstanding the content found at the Domain Name, the construction of the Domain Name itself is such to carry a risk of implied affiliation and thus cannot constitute fair use. The Respondent has chosen not to respond to the Complaint or to take any steps to counter the *prima facie* case established by the evidence available to the Panel. In the circumstances, the Panel finds that the Complainant has established that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

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

Since the Respondent has used the Domain Name for a website prominently featuring the Complainant's Mark, and has operated an online shop purporting to offer the Complainant's products for sale, the Panel is in no doubt that the Respondent had the Complainant and its rights in the Mark in mind when it registered the Domain Name. In light of the nature of the Domain Name, comprising the Mark and the geographic term "sverige", and the Respondent's use of the Mark and copies of the Complainant's images of its products, the Panel considers that the Respondent has registered and used the Domain Name with a view to confusing Internet users into believing that the website was associated with or authorized by the Complainant, and in particular that it was an authorized reseller of the Complainant's products in Sweden.

In the Panel's view, the use of the Domain Name for such activity, taking unfair advantage of the Complainant's rights in the Mark, clearly with a view to commercial gain, amounts to paradigm bad faith registration and use for the purposes of the Policy, paragraph 4(b)(iv). The fact that the Domain Name is currently inactive does not obviate a finding of bad faith.

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<sup>1</sup> *Okidata Americas, Inc v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)

Accordingly, the Panel finds that the Domain Name has been registered and is being used 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 Domain Name <gforesverige.com> be transferred to the Complainant.

*/Ian Lowe/*

**Ian Lowe**

Sole Panelist

Date: October 12, 2022