

ADMINISTRATIVE PANEL DECISION

Government Employees Insurance Company (“GEICO”) v. 1&1 Internet Inc /
Andre Choquette, Bazinga Design Incorporated
Case No. D2022-3280

1. The Parties

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

The Respondent is 1&1 Internet Inc, United States / Andre Choquette, Bazinga Design Incorporated, Canada.

2. The Domain Names and Registrar

The disputed domain names <geicorc.com>, <geicospeed.com>, <missgeico.racing>, <missgeicorc.com>, <missgeico.shop>, and <missgeico.wtf> are registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 2, 2022 in respect of the disputed domain names <geicorc.com>, <geicospeed.com>, <missgeico.racing>, <missgeicorc.com>, and <missgeico.wtf>. On September 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with these disputed domain names. On September 6, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on September 7, 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 amended Complaint on September 8, 2022, with which it also requested the addition of the disputed domain name <missgeico.shop> to the current proceeding. On September 9 and September 13, 2022, the Center received several email communications from the Respondent. On September 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <missgeico.shop>. On September 16, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

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 September 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2022. The Respondent did not submit any formal response. On October 7, 2022, the Center received supplemental filing from the Complainant. On October 10, 2022, the Center notified the commencement of panel appointment process.

The Center appointed Assen Alexiev as the sole panelist in this matter on October 17, 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.

In respect of the supplemental filing of the Complainant, the Panel notes that, as discussed in section 4.6 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), unsolicited supplemental filings are generally discouraged, unless specifically requested by the panel. In all such cases, panels have repeatedly affirmed that the party submitting or requesting to submit an unsolicited supplemental filing should clearly show its relevance to the case and why it was unable to provide the information contained therein in its complaint or response (e.g., owing to some “exceptional” circumstance). The Policy and the Rules provide for a single round of pleadings by each party and the Complainant has not provided any justification why it would be appropriate to depart from this principle and allow a second round of pleadings in this proceeding. In the lack of exceptional circumstances (and the Panel is not aware of any), taking such a course is not justified and would go against the principle of expeditiousness and timely resolution of disputes set out in paragraph 10(c) of the Rules. Therefore, the Panel does not admit the Complainant’s supplemental filing.

4. Factual Background

The Complainant is an international insurance provider operating in the United States since 1948. The Complainant has issued over 18 million policies, insures more than 30 million vehicles, and has over 43,000 employees.

The Complainant is the owner of the following trademark registrations for the sign GEICO (the “GEICO trademark”):

- the United States trademark GEICO with registration No.763274, registered on January 14, 1964 for services in International Classes 35 and 36;
- the United States trademark GEICO with registration No. 2601179, registered on July 30, 2002 for services in International Class 36; and
- the International trademark GEICO with registration No. 1178718, registered on September 4, 2013 for services in International Class 36.

The Complainant is also the owner of the domain name <geico.com>, registered on July 22, 1995, which resolves to its official website.

The disputed domain names <geicorc.com>, <geicospeed.com>, <missgeico.racing>, <missgeicorc.com>, and <missgeico.wtf> were registered on August 28, 2022. The disputed domain name <missgeico.shop> was registered on September 3, 2022. According to the evidence submitted with the Complaint, all disputed domain names resolved to websites containing pay-per-click (“PPC”) links to third-party websites. The disputed domain names are currently inactive.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain names are confusingly similar to its GEICO trademark, because each of them incorporates this trademark and the addition of the descriptive terms "miss", "rc", and "speed" does not preclude a finding of confusing similarity.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain names, because the Complainant has not authorized it to use the GEICO trademark, and the Respondent does not offer any legitimate services on the websites to which the disputed domain names resolve. The Complainant maintains that the use of the disputed domain names for parked webpages comprising PPC links (including links to a competitor of the Complainant) does not represent a *bona fide* offering, particularly where such links capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. According to it, the GEICO trademark is one of the most recognizable insurance brands in the United States and is known throughout the world. The Complainant states that the Respondent's use of the disputed domain names to collect PPC fees by directing website visitors to third-party websites suggests that the Respondent's intent in registering and using the disputed domain names was to exploit the reputation of the Complainant's GEICO trademark.

B. Respondent

The Respondent states that the disputed domain names were registered in connection with its racing of a commercially purchased remote-control boat named "Miss Geico", and the websites at the disputed domain names are meant to follow the racing times of this remote-control boat. The Respondent provides a purchase invoice for such remote-control boat, with an order date of September 3, 2022. The Respondent maintains that the Complainant has allowed the manufacturer of this boat to use its GEICO logo on the boat. The Respondent submits that it has carried out trademark searches for "Miss Geico" in the United States and Canada, and did not find any registered trademark. It notes that it did a further search for "Geico" and attached the results of this search to the Response.

The Respondent submits that it understands that the Complainant has a registered trademark, but according to it, the registration of the disputed domain names for non-profit use for the purposes of remote-control racing and with reference to the Complainant should be taken into consideration. The Respondent maintains that the disputed domain names that do not refer to "Miss Geico", *i.e.*, <geicorc.com> and <geicospeed.com>, should be removed from the dispute.

The Respondent adds that it is located in Canada and proposes to include on its websites a reference to the GEICO logo and the "Miss Geico" name, stating that they are property of the Complainant and that the Respondent is only racing the boat, together with a link to the Complainant's website. The Respondent adds that to remedy the situation, it could also transfer the disputed domain names from the Registrar in the United States to a Canadian registrar.

6. Discussion and Findings

Pursuant to the Policy, paragraph 4(a), the Complainant must prove each of the following to justify the transfer of the disputed domain names:

- (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 were registered and are being used in bad faith.

In this case, the Center has employed the required measures to achieve actual notice of the Complaint to the Respondent, in compliance with the Rules, paragraph 2(a), and the Respondent was given a fair opportunity to present its case.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: “[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain-name holder) to retain registration and use of the disputed domain name [...]”.

A. Identical or Confusingly Similar

The Complainant has provided evidence that it is the owner of the GEICO trademark and has thus established its rights in this trademark for the purposes of the Policy.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the Top-Level Domain (“TLD”) section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). See section 1.11.1 of the [WIPO Overview 3.0](#). The Panel sees no reason not to follow the same approach here, so it will disregard the “.com”, “.racing”, “.shop”, and “.wtf” TLDs in the disputed domain names.

The disputed domain names incorporate the GEICO trademark with the addition of the words “miss” or “speed”, or the letters “rc”. These additional elements are located after “geico”, and the GEICO trademark is recognizable in the disputed domain names, so their addition does not preclude a finding of confusing similarity between the disputed domain names and the Complainant’s trademark. See section 1.8 of the [WIPO Overview 3.0](#).

In view of the above, the Panel finds that the disputed domain names are confusing similar to the GEICO trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP 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. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, because it has not been authorized by the Complainant to use the GEICO trademark and has not used them in connection with a *bona fide* offering of goods or services. The Complainant points out that the disputed domain names resolve to parking webpages containing commercial pay-per-click links, including links to a competitor of the Complainant. The Complainant has thus established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names.

The Respondent submits that the disputed domain names were registered in connection with its racing of the remote-control boat named “Miss Geico”, and the websites at the disputed domain names were meant to follow the racing times of this remote-control boat. According to the Respondent, the Complainant has allowed the manufacturer of this boat to use its GEICO logo on the boat, and the registration of the disputed domain names for non-profit use for the purposes of remote-control racing and with reference to the Complainant is legitimate.

The disputed domain names are confusingly similar to the GEICO trademark, and as shown by the evidence submitted by the Complainant and not disputed by the Respondent, they have resolved to parking webpages that contained PPC links, including to one of the Complainant's competitors. The Respondent has submitted evidence that it has purchased a remote-control boat with the name "Miss Geico", but it was purchased only after the submission of the Complaint, and its purchase does not explain the need for the Respondent to register not one, but six disputed domain names containing the GEICO trademark, two of them not including the word "miss" and one having been registered after the submission of the Complaint. There is no website dedicated to the Respondent's boat at any of the disputed domain names and the Respondent has not submitted any evidence that it has started the preparation of such website. The Respondent does not deny having knowledge of the Complainant and does not comment on the Complainant's evidence that the disputed domain names have resolved to parking webpages containing commercial pay-per-click links, including links to a competitor of the Complainant, or the timing of its purchase of the remote-control boat and most recent disputed domain name registration. All this taken together does not support the Respondent's explanation that it has registered the disputed domain names to operate non-profit websites dedicated to the racing results of a remote-control boat, but instead casts doubt on the credibility of the Respondent's submissions. Accordingly, the Panel regards this explanation as self-contradictory and unconvincing.

Rather, it appears to the Panel that the Respondent knew the Complainant and targeted it when registering the disputed domain names, and has registered and used them in an attempt to attract Internet users to the websites at the disputed domain names which have contained commercial PPC links, including to one of the Complainant's competitors. The Panel does not regard such conduct as legitimate or giving rise to rights or legitimate interests of the Respondent in the disputed domain names.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

"(i) circumstances indicating that you have registered or you have 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 that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The Respondent has registered six disputed domain names that are all confusingly similar to the Complainant's GEICO trademark, with one of the disputed domain names having been registered after the submission of the Complaint. They have all been used for parking webpages containing commercial PPC links, including to one of the Complainant's competitors. The Respondent does not deny its knowledge of the Complainant, and has submitted with its Response results of trademark searches that include the GEICO trademark. As discussed in the section on rights and legitimate interests, the Respondent's explanation that

it registered all six disputed domain names to operate non-profit websites dedicated to the racing results of a remote-control boat is not convincing. The circumstances of this case lead the Panel to the conclusion that the Respondent is aware of the Complainant and its GEICO trademark, and has targeted them with the registration and use of the disputed domain names in an attempt to mislead and attract Internet users to the Respondent's websites.

Therefore, the Panel finds that the disputed domain names were registered and are being used in bad faith under Paragraph 4(b)(iv) 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, <geicorc.com>, <geicospeed.com>, <missgeico.racing>, <missgeicorc.com>, <missgeico.shop>, and <missgeico.wtf>, be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: October 31, 2022