

ADMINISTRATIVE PANEL DECISION

Peter Millar, LLC v. Juan Allman
Case No. D2024-3775

1. The Parties

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

The Respondent is Juan Allman, Canada.

2. The Domain Name and Registrar

The disputed domain name <gfore-fr.com> (the “Disputed Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 17, 2024. On September 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 17, 2024, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent (Domain Administrator, PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 17, 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 September 22, 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 September 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 14, 2024.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on October 18, 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

The Complainant, Peter Millar, LLC, is a United States company founded in 2001. The Complainant acquired the golf inspired sportswear and accessories brand “G/FORE” in 2018.

The Complainant is the owner of numerous trademarks including the following:

- G FORE, United States word mark registered under No. 4035425 on October 4, 2011, in class 28;
- G/FORE, United States word mark registered under No. 4117878 on March 27, 2012, in class 28;
- G/FORE, International word mark registered under No. 1526743 on March 9, 2020, in classes 25 and 28; and
- GGGG, United States figurative mark depicted below, registered under No. 4799904 on August 25, 2015, in class 25: 



The Complainant is the owner of several domain names including <gfore.com> and <gfore.co.uk>.

The Respondent registered the Disputed Domain Name on May 29, 2024. According to the Complainant’s evidence, the Disputed Domain Name resolved to a website that displayed the Complainant’s word and figurative trademarks and offered similar products to those of the Complainant. The Disputed Domain Name currently resolves to a webpage labeled as a “Dangerous site” by at least one web browser.

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 Name.

Notably, the Complainant contends that the Disputed Domain Name is confusingly similar to a trademark in which it claims to have rights.

The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name as, according to the Complainant:

- the Respondent is not commonly known by the Disputed Domain Name, and there is no evidence that at the time the Respondent registered the Disputed Domain Name it had trademark or intellectual property rights;
- it has not granted the Respondent any right, authorization, or permission to use its G FORE trademarks in a domain name or in any other capacity;
- the Respondent does not use the Disputed Domain Name for a bona fide offering of goods or services or legitimate noncommercial or fair use as the website previously linked to the Disputed Domain Name mimicked the Complainant’s website and the current website linked to the Disputed Domain Name resolves to a warning page which states: “Dangerous site”;
- the earliest date on which the Respondent registered the Disputed Domain Name is significantly after the Complainant’s first use in commerce of its relevant G FORE trademark.

Finally, the Complainant claims that the Disputed Domain Name was registered and is being used in bad faith. According to the Complainant:

- the website that was previously linked to the Disputed Domain Name created a false affiliation with the Complainant, and the Respondent has intentionally attempted to attract for commercial gain Internet users to its website by creating likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of the website likely to disrupt the business of the Complainant;
- the Disputed Domain Name currently resolves to a warning page as Google Safe Browsing detected phishing on the Disputed Domain Name. The use of the Disputed Domain Name for phishing activity is evidence of bad faith;
- given the world-wide fame of the Complainant and its marks, and the fact that the Disputed Domain Name incorporates the G FORE mark, and it previously resolved to a website that prominently used G/FORE and GGGG trademarks and offered product bearing the Complainant's marks, the Respondent had knowledge of the Complainant and its G FORE mark;
- the mere registration of a domain name that is identical or confusingly similar to a third party's widely known trademark can, by itself, constitute a presumption of bad faith for the purpose of Policy.

B. Respondent

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

6. Discussion and Findings

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 Complainant's G FORE mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Additionally, the Panel finds that the addition of a hyphen and another term, here, "fr", does not prevent a finding of confusing similarity between the Disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is well established that generic Top-Level-Domains, here ".com", may be disregarded when considering whether the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights.

Based on the available record, 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 Name. 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 Name such as those enumerated in the Policy or otherwise.

The Panel notes that the Respondent has not apparently been commonly known by the Disputed Domain Name, and that the Respondent does not seem to have acquired trademark or service mark rights in it. According to the information provided by the Registrar, the Respondent is “Juan Allman”. The Respondent’s use and registration of the Disputed Domain Name was not authorized by the Complainant.

Where a domain name consists of a trademark plus an additional term, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

The Disputed Domain Name incorporates the Complainant’s G FORE trademark in its entirety, and merely adds a hyphen and the term “fr” which is the country code of France. In the Panel’s view, the addition of this term may even increase the likelihood of confusion with the Complainant as it could easily be considered as referring to the French website of the Complainant’s G FORE brand. Therefore, the Panel finds that the Disputed Domain Name carries a risk of implied affiliation with the Complainant and cannot constitute fair use.

Beyond looking at the domain name and the nature of any additional terms appended to it, UDRP panels assess whether the overall facts and circumstances of the case, including the content of the website linked to the disputed domain name and the absence of a response, support a fair use or not. [WIPO Overview 3.0](#), section 2.5.2.

According to the Complainant’s evidence, the Disputed Domain Name resolved to a website that displayed the G/FORE trademark and the figurative GGGG trademark, and offered similar products to those of the Complainant. Noting the lack of any authorization by the Complainant, the Panel finds that this does not amount to a bona fide offering of goods or services, or a legitimate noncommercial or fair use of the Disputed Domain Name. Moreover, the Respondent did not accurately and prominently disclose its (lack of) relationship with the Complainant. As a result, the Respondent’s use fails the so-called “Okidata test” for legitimate resellers, distributors of a complainant’s goods or services. Rather, the Panel finds that the use of the Disputed Domain Name points to illegitimate activity (impersonation/passing off) which can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.

The Panel observes that the Disputed Domain Name currently resolves to a webpage labeled as a “Dangerous site” by at least one web browser. In the Panel’s view, this does not amount to any legitimate noncommercial or fair use or use in connection with a bona fide offering of goods or services either.

The Respondent had the opportunity to demonstrate his rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainant has not been rebutted.

Based on the available record, 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.

As established above, the Complainant has shown that the Disputed Domain Name resolved to a website offering golf sportswear products and displaying the Complainant's word and figurative trademarks. In the Panel's view, the circumstances of this case indicate that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trademark. [WIPO Overview 3.0](#), section 3.2.4.

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.

In the present case, the Panel finds that the Respondent must have been aware of the Complainant and its trademark rights when it registered the Disputed Domain Name as:

- the Disputed Domain Name incorporates the Complainant's distinctive trademark in its entirety;
- the Disputed Domain Name previously resolved to a website displaying both the Complainant's word and figurative trademarks;
- the Respondent seemed to offer for sale products similar to the Complainant's products;
- the Respondent registered the Disputed Domain Name more than 10 years after the registration of some of the Complainant's G FORE trademarks.

Given the totality of the circumstances discussed above, the fact that the Disputed Domain Name currently resolves to a webpage labeled as a "Dangerous site" by at least one web browser does not prevent a finding of bad faith.

Finally, the Respondent did not take part in these administrative proceedings. According to the Panel, this serves as an additional indication of the Respondent's bad faith.

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 that the Disputed Domain Name <gfore-fr.com> be transferred to the Complainant.

/Flip Jan Claude Petillion/

Flip Jan Claude Petillion

Sole Panelist

Date: October 29, 2024