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Sandy Lane West  
Oxford  
OX4 6LB

**Please reply to:**  
128 Knollmead  
Tolworth  
Surbiton  
Surrey  
KT5 9QW  
8th February 2003

Dear Sirs,

**Your reference: 00820**  
**gap-online.co.uk**  
**Global Affiliate Programs : The Gap Inc.**

I refer to your letter of January 29 informing me of the complaint submitted by Messrs Clifford Chance on behalf of Gap Inc. Perhaps not unsurprisingly I wish to dispute the Abusive Registration claim on the following grounds.

1. The domain gap-online.co.uk was registered in April 2000 to provide an appropriate home for Global Affiliate Programs, a web site developed as part of Cybernet Ventures Limited's strategy to assist webmasters. The use of the acronym 'g a p' is and was purely to make the URL shorter and easier for visitors to remember. The use of initials in URL's is a well-established web practice. There are numerous examples of companies and organisations which use only their initials in their URLs such as the British Broadcasting Corporation (bbc.co.uk), the Automobile Association (theaa.com) and indeed Nominet (nic.uk).
2. In support of this fact, we draw your attention to some example URLs, which were supplied to Clifford Chance in our letter of 23<sup>rd</sup> November 2002 which contain the word gap or the letters "g", "a" and "p" which are not associated with Gap Inc. These include gap.co.uk, gap-online.com, gap-online.net and gap.us. From these URL's it can be seen that Gap Inc. do not own, nor are they at this stage seeking to own these or a number of other registrations utilising the letters g, a & p. We submit therefore that it is unrealistic to have expected us to assume prior to registration that Gap Inc would express any interest in the domain gap-online.co.uk.

3. Global Affiliate Programs has grown into possibly the largest directory of affiliate programs on the Internet. It has many frequent visitors and provides a very useful service for webmasters looking to add advertising to their web sites, as well as companies seeking to increase their online presence through banner advertising. It is linked to by numerous affiliate referral sites and achieves a high ranking in the popular search engines.
4. Our site clearly states the full name of the site and explains its purpose on its homepage, in letters 24 points high, with the words "Welcome to Global Affiliate Programs". It is our view that anyone visiting our site in the mistaken belief that it had anything to do with Gap Inc. or any other organisation, would instantly realise that it did not.
5. We dispute the claim that the design of the site, and in particular the "buyclothes.htm" page, copies the design of gap.com or any other of the Gap Inc web sites. The evidence submitted by Messrs Clifford Chance merely confirms this view. The Gap Inc sites' homepages make heavy use of large facial graphics, reproduce their brand names frequently, and have links which are underlined. The section-links at the top of the web site are mostly inversed and they appear as capitalised text which changes to a royal blue colour on lighter blue background when selected. The "buyclothes.htm" page on our site uses small thumbnail graphics, has clear uncapitalised text links which change colour when a mouse passes over them and has no links utilising the word "gap" or any of its derivatives, other than a new link to gap.com which has been recently added (see paragraph 9). The fonts used are different (although we do both use web-friendly san-serif fonts which is standard practice on web sites and has no significance). In addition, Gap Inc's logo (although interestingly not necessarily their web site pages) uses dark blue as its background. The "buyclothes.htm" page on our web site however uses a vignette of blue to white, from the top to the bottom of the graphic. We maintain therefore that the "buyclothes.htm" page is not even reminiscent of Gap Inc's usual colours or design.
6. We dispute the claim that we could have known prior to the registration of the domain that it would attract customers looking for a UK site of Gap Inc. (given the prior registration of more likely URLs for a UK Gap site such as gap.co.uk). The fact that our domain was attracting such attention only became apparent to us after reports from our hosting company showed details of referrals to our site from various search engines with reference to Gap clothes type searches. In support of this, I would like to suggest that if we had intended to hijack Gap Inc customers surely we would have devised the "buyclothes.htm" page from the site's conception rather than two years later.
7. We dispute the claim that we are using the site to promote third party web sites. We are merely referring to third parties those 'lost souls' who arrive at our site looking to buy clothes online. The third parties' web sites are clearly branded in their own colours and logos and are mostly large, well-known retail outlets. The visitors we refer to them can at no time be under the impression that they are making a purchase from Gap Inc.
8. We further reject utterly the claim that we are directing potential customers of Gap Inc to third parties. Gap Inc does not conduct trade online in territories outside the

US and Canada; therefore they have no potential UK online customers. There are undoubtedly people in the UK who are seeking to be online customers of Gap Inc but at the moment Gap Inc has chosen not to service this market. All that we are doing is making this explicit on one page of our site and suggesting alternative retailers who do have the foresight to trade online in the UK.

9. Nevertheless, and without prejudice, we have re-considered this point and have added text to the "buyclothes.htm" page pointing out that visitors from the US and Canada can shop at gap.com. The text links to gap.com. That said, most of our visitors come from the UK and there are amongst this group no potential customers for Gap Inc.
10. On the subject of changes to our site at gap-online.co.uk, we made a number of changes on receipt of the first letter from Clifford Chance. For instance, they had reported their clients' objections to the use of graphics which closely matched their clients trade marks. These graphics were removed immediately. We then apologised in our letter of 23<sup>rd</sup> November 2002 and offered an explanation (para. 12) as to why we did not believe that Gap Inc objected to the use of such graphics given their proliferation on the web. We notice now, that despite requesting these changes, Clifford Chance now refer to them as 'minor'. We submit that in responding to their objections we have acted reasonably.
11. Clifford Chance seem to object strongly to the "buyclothes.htm" page. We have changed the disclaimer banner because they objected to the words "THIS IS NOT GAP" saying that it did not dispel confusion. We find this suggestion laughable but have changed the banner anyway. We will gladly change it again to contain wording to Clifford Chance's liking. We maintain that we are acting reasonably.
12. The "buyclothes.htm" page was conceived and created in 2002 only after repeated applications to join the Gap Inc affiliate program had been rejected. The grounds for the rejection were our inability to provide a postal address in the United States, which is a stated condition of the program. It had been our intention to add a suitable link to gap.com on our web site's homepage to permit the easy redirection of any visitors who had come to our site in error. We reiterate that the necessary approval to do this was refused Gap Inc.
13. Only after these actions on our part, together with Gap Inc's rejections of our approaches, and in the knowledge that Gap Inc. did not permit visitors from the UK to purchase goods online from their sites, we decided to create the "buyclothes.htm" page to redirect visitors seeking to buy clothes to suitable alternative online retailers who deliver to UK consumers. Global Affiliate Programs does not sell clothes, or indeed anything else.
14. We would like to point out that we drew Gap Inc's attention to our site in 2001 by applying to join their affiliate program. The fact that the affiliate program managers did not communicate this fact to the in-house legal department cannot be our responsibility. Similarly, it would be rather odd behaviour of a web site wishing to pass themselves off as a well-known brand (in this case Gap) to communicate with the company they were trying to cheat.
15. The Global Affiliate Programs web site does not claim to be connected with Gap Inc. and indeed explicitly states that it is not connected to Gap Inc. We reiterate that we

expected the large lettering on our site of the statement "This is not GAP" would make this obvious.

16. It is our view that there is no abusive registration here. We have at no time tried to benefit financially from the use of the URL gap-online.co.uk other than through its legitimate content. We have not attempted to sell this URL to Gap Inc. or to any of their competitors, nor to the many groups or individuals campaigning against the alleged business practices of Gap Inc. We have not used this URL to denigrate Gap Inc, their products, staff or customers. We have no intention of doing any of these practices in the future. We registered this domain to host an affiliate directory and this we have done. We operate in a completely different market from Gap Inc, both in terms of industry sector and geography.
17. We are disappointed that Clifford Chance have ignored the contents of our letter of 23 November 2002. They say that their client does not agree with our analysis but do not say what points they disagree with, nor do they provide a reason for this point of view. This has made it difficult to establish a dialogue.
18. The main business of our web site is the listing and categorising of hundreds of affiliate programs. Its main source of income is through the multi-tier programs listed on the site which offer a small percentage commission of the sales made by referred affiliates.
19. It remains our view, that our site makes legitimate use of its initials and that the disclaimers in place are sufficient to resolve any confusion in the minds of visitors. We could remove the references to Gap Inc. from the "buyclothes.htm" page if Clifford Chance wished but we feel that this would only add to any confusion. The site is first and foremost a directory of affiliate programs and the additional pages "buyclothes.htm" and "goshopping.htm" are merely ancillary services to assist misdirected visitors.
20. We have not attempted to mislead visitors into believing that at any point on the site they were on a site of Gap Inc. We have not solicited visitors by advertising the site as a clothes shop or any other type of retail outlet.

For these reasons we are unwilling to surrender the domain and suggest that this may be considered as an attempt by Gap Inc of aggressive domain name hijacking.

The information contained in this response is to the best of the Respondent's knowledge true and complete and the matters stated in this response comply with the Procedure and applicable law.

I can confirm that no legal proceedings have been commenced or terminated in connection with the gap-online.co.uk domain name.

I will act on my own behalf and can be contacted by email at [george@gap-online.co.uk](mailto:george@gap-online.co.uk) or by telephone on 020 8330 5579 or by post at the address at the top of this letter.

Yours Faithfully

Mr George Forsyth  
Company Secretary  
Cybernet Ventures Limited