

## **ADMINISTRATIVE PANEL DECISION**

Seaboard Corporation v. Host Master, 1337 Services LLC  
Case No. D2024-1007

### **1. The Parties**

Complainant is Seaboard Corporation, United States of America (“United States”), represented by Hovey Williams LLP, United States.

Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

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

The disputed domain name is <seaboardincorp.com> which is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 6, 2024. On March 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from those in the Complaint (Tucows Domains Inc.). The Center sent an email communication to Complainant on March 12, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 15, 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 Respondent of the Complaint, and the proceedings commenced on March 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 7, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 8, 2024.

The Center appointed Gerardo Saavedra as the sole panelist in this matter on April 14, 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**

Complainant, based in the United States, is a global food, energy and transportation company.

Complainant has rights over the SEABOARD mark for which it holds several mark registrations, such as United States registration No. 2246196, registered on May 18, 1999, in class 29, with stated first use in 1984.

The disputed domain name was registered on January 18, 2024. Before the Complaint was filed, the disputed domain name was used as email address in a phishing scheme and, according to Complainant, the disputed domain name did not resolve to an active website although it was formerly redirected to Complainant's website.

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

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

Complainant contends that it has satisfied each of the elements required under the Policy and requests that the disputed domain name be transferred to Complainant. Complainant's assertions may be summarized as follows.

Complainant, founded in 1918 as "Seaboard Flour Co.", is a well-known Fortune 500 company whose stock is publicly traded. Complainant owns several mark registrations for SEABOARD and SEABOARD-formative marks in connection with a variety of meat products, as well as transportation, customs clearance, export/import, and warehousing services. Complainant has continuously used the SEABOARD mark since at least 1984. Complainant also owns and operates one of its principal websites under the domain name <seaboardcorp.com>, registered in 1996.

The disputed domain name is confusingly similar to the SEABOARD mark, and also to Complainant's <seaboardcorp.com> domain name. The disputed domain name incorporates the entirety of the SEABOARD mark; the addition of the term "incorp" in the disputed domain name does not avoid the confusing similarity between them, as such an addition is merely an abbreviation of the generic entity designation "incorporated" that does not diminish the intended suggestion that the disputed domain name is connected or associated with Complainant.

Respondent is not commonly known by the disputed domain name, Complainant is not aware of any prior relationship with Respondent, nor has Complainant ever granted Respondent a license to use the SEABOARD marks for any purpose. The disputed domain name resolves to an inactive page, but previously redirected to Complainant's corporate website at "www.seaboardcorp.com". There is no evidence indicating that Respondent used or made preparations to use the disputed domain name in connection with a good-faith offering of goods or services.

Given the confusing similarity of the disputed domain name with Complainant's SEABOARD mark and <seaboardcorp.com> domain name, any third party would view any email address using the disputed domain name extension as relating to, or originating from, Complainant. Respondent used the disputed domain name in an email phishing scheme that falsely impersonated one of Complainant's Senior Directors. Respondent's infringing and illegal activities cannot be held to grant Respondent any rights or legitimate interests in the disputed domain name.

On January 23, 2024, Respondent used the disputed domain name as an email address to send a phishing email, using the name of the Complainant's Senior Director. Respondent sent the phishing email to an IT services and consulting company that works with Complainant, ordering laptop computers worth over USD 188,000, which purchase order was finalized through a series of subsequent phishing email communications on January 24, 2024.<sup>1</sup> The laptop computer vendor shipped the computers, and although it has in its records that the computers were received by Complainant on February 1, 2024, Complainant asserts that it did not receive them. It seems Respondent intercepted the shipment and may have control over the laptop computers. On February 8, 2024, Complainant submitted a phishing complaint with the Registrar requesting immediate action to deactivate and lock the URL from further use or access, so no further emails were able to be sent through the disputed domain name. Past UDRP decisions have held that the use of a domain name for illegal activity, such as phishing, can never confer rights or legitimate interests on a respondent.

The disputed domain name previously redirected to Complainant's website. Prior UDRP decisions have found that a respondent redirecting a domain name to the complainant's website may establish bad faith because it allows respondent to create a real or implied ongoing threat to the complainant.

It may be inferred that Respondent knew the prior rights and wide use of the SEABOARD marks, and thus registered the disputed domain name for the sole purpose of running a phishing scheme. The email communications sent by Respondent to Complainant's supplier were for no other purpose than to commit a fraud, scamming Complainant's supplier into sending laptop computers to Respondent at a currently unknown location.

Respondent's registration of the disputed domain name, confusingly similar to Complainant's SEABOARD marks, and its use for per se illegitimate activity -a phishing scheme- clearly support a finding of bad faith registration and use.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs the Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

The lack of response from Respondent does not automatically result in a favorable decision for Complainant (see section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")). The burden for Complainant, under paragraph 4(a) of the Policy, is to show: (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; (ii) that Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) the disputed domain name has been registered and is being used in bad faith.

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

The Panel finds 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).

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<sup>1</sup>Copies of the email communications, ranging from January 23, 2024, through February 2, 2024, are attached to the Complaint as Annex 8.

The entirety of the SEABOARD mark is reproduced within the disputed domain name, albeit followed by the characters “incorp”. The Panel finds the mark is recognizable within the disputed domain name and that the addition of said characters 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](#), sections 1.7 and 1.8).

The Panel finds the first element of the Policy has been established.

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

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).

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name. There is no evidence in the case file of any of those, or of any other circumstances giving rise to a possible right to or legitimate interest in the disputed domain name by Respondent, but rather the opposite may be validly inferred.

The evidence in the file shows that the disputed domain name was used as an email address for sending phishing email communications, conveying the impression that the sender is associated with Complainant, that is, the disputed domain name was used to fraudulently obtain a benefit by impersonating a Complainant’s employee and deceiving a supplier. Such use demonstrates neither a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name ([WIPO Overview 3.0](#), section 2.13.1<sup>2</sup>).

The Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but 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).

Having reviewed the case file, the Panel finds that Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy. The evidence in the case file indicates that Respondent targeted Complainant with the intention of impersonating a Complainant’s employee in order to deceive a supplier through phishing emails and to commercially benefit therefrom. The fact that the disputed domain name incorporates the entirety of, and is confusingly similar to, Complainant’s SEABOARD mark, coupled with the email communications sent to a Complainant’s supplier from an email account linked to the disputed domain name (which confusingly resembles Complainant’s <seaboardcorp.com> domain name as well) and using such employee’s name and contact details, lead to the inevitable conclusion that Respondent

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<sup>2</sup> See also *Syngenta Participations AG v. Guillaume Texier, Gobain Ltd*, WIPO Case No. [D2017-1147](#): “A registrant cannot acquire rights or legitimate interests by the use of a domain name as an email address from which to send phishing emails”.

registered and used the disputed domain name in bad faith ([WIPO Overview 3.0](#), section 3.4<sup>3</sup>).

Based on the available record, the Panel finds that 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 <seaboardincorp.com> be transferred to Complainant.

/Gerardo Saavedra/

**Gerardo Saavedra**

Sole Panelist

Date: April 28, 2024

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<sup>3</sup> See *BinckBank N.V. v. Helo Holdings LTD*, WIPO Case No. DNL2010-0014: “Respondent in the present case apparently targeted Dutch students by pretending to be the Complainant and sending them an offer from an e-mail address associated with the Domain Name [...] Phishing activities pose a severe threat to customers, trademark holders and third parties”. See *BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. D2016-0364: “the use of an email address associated with the disputed domain name, to send a phishing email for the purposes of dishonest activity is in itself evidence that the disputed domain name was registered and is being used in bad faith”.