

## **ADMINISTRATIVE PANEL DECISION**

Seaboard Corporation v. forwardtome me  
Case No. D2024-2907

### **1. The Parties**

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

The Respondent is forwardtome me, United Kingdom (UK).

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

The disputed domain name <seaboardsfood.com> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 16, 2024. On July 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 18, 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 (Privacy Protect LLC, PrivacyProtect.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 18, 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 July 23, 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 July 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 16, 2024.

The Center appointed Mladen Vukmir as the sole panelist in this matter on August 29, 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 is Seaboard Corporation a Delaware corporation, globally recognized food, energy and transportation company founded in 1918. It operates through a network of integrated service-oriented companies, one of which is Seaboard Foods, founded in the early 1990s and today is one of the top US pork producer and processor.

The Complainant is the owner of:

- SEABOARD trademark registered in US on May 18, 1999, under the registration number 2246196 for goods and services in class 29 of International Classification (“IC”);
- SEABOARD FOODS trademark registered in US on October 21, 2008, under the registration number 3519968 for goods and services in class 29 of IC; and
- SEABOARD FOODS (logo) trademark registered in US on January 31, 2023, under the registration number 6969346 for goods and services in class 29 of IC (collectively referred to as the “SEABOARD FOODS trademark”).

The Complainant also owns and oversees the management and operation of the official website for Seaboard Foods which has been registered on May 13, 2005 under the domain name <seaboardfoods.com>.

The Respondent is the holder of the disputed domain name, as disclosed by the Registrar. The disputed domain name was registered on April 2, 2024 and resolves to a webpage that is parked with the Registrar stating the disputed domain name is active. After creating the disputed domain name, the Respondent used it in an email phishing scheme that falsely impersonated one of Seaboard Foods employees in attempt to deceive one of its vendors into payment of invoices to a bank account belonging to the Respondent.

#### **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:

(i) it is a well-respected, worldwide recognized food, energy and transportation company founded in 1918. Due to its longstanding history, the trade name “Seaboard”, as well as the trade name of its wholly-owned subsidiary “Seaboard Foods” which was founded in the 1990s, it is recognized in relevant industries worldwide. The Complainant is today a Fortune 500 company that operates globally through a network of integrated service-oriented companies;

(ii) the Complainant owns and uses a number of SEABORD, SEABOARD FOODS, and SEABOARD-formative trademarks registered worldwide. The Complainant has been continuously using the SEABOARD word trademark since 1984, and the SEABOARD FOODS marks since 2008. The Complainant also owns the principal website created under the domain name <seaboardfoods.com>;

(iii) the disputed domain name is confusingly similar to the Complainant’s SEABOARD FOODS trademark as it uses both dominant words in Complainant’s SEABOARD FOODS trademark, and consists of intentional

misspelling by changing the position of the letter “s” in the trademark - moving it from the end of the word “foods” to the end of the word “seaboard”;

(iv) the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name, neither has the Complainant had any prior relationship with the Respondent. The Complainant has never licenced the Respondent to use the SEABOARD trademarks for any purpose. There is no evidence that the Respondent used or plans on using the disputed domain name in regards with a bona fide offering of goods and services under the SEABOARD trademarks or SEABOARD FOODS trademarks; and

(v) the Respondent has registered and is using the disputed domain name in bad faith. The Respondent knew of the Complainant’s prior rights and registered the disputed domain name to deceive one of Seaboard Food’s vendors in a phishing scheme. After registering the disputed domain name, the Respondent used the disputed domain name in an email address, posing as one of the Complainant’s employees. In the email, which has been sent to running email chains of multiple Seaboard Foods’ contacts of the vendor, the Respondent is seeking payment of unpaid invoices to a supposedly “new” Seaboard foods bank account that in reality belongs to the Respondent. The Complainant states that the Respondent’s actions are fraudulent, and that the Respondent knew the prior rights and use of the Complainant’s SEABOARD FOOD trademarks. Lastly, the Respondent’s decision to register the disputed domain name using a service to hide their identity further indicates that the Respondent’s actions were dishonest.

## **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 is the holder of a number of SEABOARD and SEABOARD FOODS trademarks registered before the competent authorities worldwide. As such, the Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable 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.

After performing the side-by-side comparison of the disputed domain name and SEABOARD FOODS trademark, it is obvious to the Panel that the disputed domain name consists of intentional misspelling of the Complainant’s SEABOARD FOODS trademark, changing the placement of the letter “s” in the word “foods” to the end of the word “seaboard”. This does not prevent the Panel from finding a confusing similarity between the Complainant’s mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.9.

The generic Top-Level Domain “.com” is a standard registration requirement and as such may be disregarded under the confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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 Respondent is not authorized by the Complainant to use SEABOARD FOODS trademarks, and there is no indication that the Respondent is known under the disputed domain name. There is no apparent relation from the records between the Respondent and the Complainant, neither does it arise that the Complainant has ever licensed or otherwise permitted the Respondent to use its SEABOARD FOODS trademarks, or to apply for or use any domain name incorporating the same trademark.

There is no evidence in the case file or otherwise apparent to the Panel that the Respondent has been using the disputed domain name in connection with a bona fide offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name. The Respondent has failed to provide any reply to the Complainant, and accordingly failed to rebut the Complainant’s showing that the Respondent has no rights or legitimate interests in the disputed domain name.

The nature of the disputed domain name, changing the placement of a single letter, indicates the Respondent’s awareness of the Complainant and its SEABOARD FOODS trademark, and points to an intention to confuse Internet users seeking for or expecting the Complainant, which does not support a finding of any rights or legitimate interests in this case. [WIPO Overview 3.0](#), section 2.5.1.

Furthermore, the Panel finds that the disputed domain name has been used for an illegal activity. Specifically, the Respondent used the disputed domain name for phishing, as was the Complainant’s claim, accompanied by supporting evidence. The use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, considering the circumstances and evidence presented, the Panel deems the Complainant’s trademarks to be well-known.

The Panel believes that it is highly unlikely that the Respondent registered and used the disputed domain name without the awareness of the Complainant and its globally known SEABOARD FOODS trademark. The Panel finds that the Respondent registered the disputed domain name not only without any authorization from the Complainant, but neither does the Respondent have any prior relationship or communication with the Complainant.

Panels have held that the use of a domain name for illegal activity, here phishing, constitutes bad faith. The Claimant submitted evidence as to show that the Respondent used the disputed domain name for the activity of phishing. Specifically, the Respondent used the disputed domain name to deceive one of the Complainant's vendors into paying invoices to a bank account which belonged to the Respondent. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. [WIPO Overview 3.0](#), section 3.4.

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 <seaboardsfood.com> be transferred to the Complainant.

*/Mladen Vukmir/*

**Mladen Vukmir**

Sole Panelist

Date: September 12, 2024