

## **ADMINISTRATIVE PANEL DECISION**

Seaboard Corporation v. Host Master, Njalla Okta LLC  
Case No. D2024-3742

### **1. The Parties**

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

The Respondent is Host Master, Njalla Okta LLC, Saint Kitts and Nevis.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2024. On September 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 16, 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 (Unknown Respondent) and from the Respondent identified by reference to Annex 1 to the Complaint (Redacted for Privacy), and contact information in the Complaint. The Center sent an email communication to the Complainant on September 19, 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 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 September 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 17, 2024.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on October 24, 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.

On October 31, 2024, the Complainant requested to consolidate this case with another UDRP case filed by the Complainant because the Respondent is the same in these two proceedings.

On November 6, 2024, the Center informed the Complainant, inter alia, that noting the Panel has already been appointed in this proceeding, and the Rules do not explicitly provide for a Complaint to be amended after the commencement of the proceeding to include additional domain names, the Complainant may submit a request to terminate the current proceeding, which we will forward to the Panel for its consideration and to order further procedural steps, if any. The Center did not hear from the Complainant by the specified due date.

On November 14, the Center informed the Parties that the decision due date has been extended to November 20, 2024.

#### **4. Factual Background**

The Complainant is a global food, energy and transportation company founded in 1918. Today, the Complainant is a Fortune 500 company that operates globally through a network of integrated self-oriented companies. Seaboard Foods is a wholly owned subsidiary of the Complainant founded in 1990 and a US pork producer and processor, exporting to more than 30 countries and providing a wide variety of pork products to consumers around the world.

The Complainant is the owner of various SEABOARD and SEABOARD FOODS trademarks worldwide, among which the following:

- SEABOARD (word), US registration No. 2246196, filed on June 10, 1998, and registered on May 18, 1999, claiming a first use in commerce since February 1984, covering goods in class 29;
- SEABOARD FOODS (word), US registration No. 3519968, filed on March 21, 2008, and registered on October 21, 2008, claiming a first use in commerce since February 29, 2008, covering goods in class 29.

The Complainant is also the owner of the domain name <seaboardfoods.com>, registered on May 13, 2005, which resolves to the Complainant's main website.

The disputed domain name was registered on May 30, 2024, and resolves to an inactive webpage. The disputed domain name has been used to send email communications under the name of a director of Seaboard Foods for fraudulent purposes, as further explained below.

#### **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 incorporates the entirety of the SEABOARD and SEABOARD FOODS marks with the sole addition of the word "inc" at the end of the disputed domain name, which cannot prevent confusing similarity, as it is merely an abbreviation of the

generic entity designation “incorporated”. Accordingly, the Complainant maintains that the disputed domain name is confusingly similar with the Complainant’s marks.

The Complainant further contends that the Respondent is not commonly known by the disputed domain name and that neither the Complainant, nor its subsidiary Seaboard Foods, have any relationship with the Respondent. The Complainant has never granted the Respondent any license to use the Complainant’s marks for any purpose. The Respondent registered the disputed domain name and approximately one month later used the disputed domain name to send emails under the name of one of Seaboard Foods’ directors, attempting to deceive vendors into shipping laptops to the Respondent. Considering the longstanding and well-known character of the Complainant’s marks and the Complainant’s earlier rights, the Complainant maintains that the sole purpose for the registration of the disputed domain name was to pass off as one of Seaboard Foods’ directors in a phishing scheme. Such use cannot amount to a fair use, or to a bona fide offering of goods or services of the disputed domain name.

With respect to registration and use of the disputed domain name in bad faith, the Complainant points out that its SEABOARD and SEABOARD FOODS marks were registered approximately 40 and 15 years, respectively, prior to the registration of the disputed domain name. Considering the well-known character of the Complainant’s marks and the fact that Seaboard Foods has long operated a website at “www.seaboardfoods.com”, it may be inferred that the Respondent knew the prior rights and wide use of the Complainant’s marks at the time of the registration of the disputed domain name. In light of these circumstances and of the Respondent’s illegitimate use of the disputed domain name as described above, the Complainant maintains that the Respondent registered and used the disputed domain name in bad faith, for the sole purpose of impersonating one of the Seaboard Foods directors and sending phishing emails under his name.

## **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 Panel finds the SEABOARD and SEABOARD FOODS marks are recognizable within the disputed domain name. Although the addition of other terms here, “inc”, may bear on assessment of the second and third elements, the Panel finds that the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Accordingly, 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 does not appear to have any relationship with the Complainant and the Complainant did not grant a license or other kind of authorization to the Respondent to use its SEABOARD and SEABOARD FOODS marks in any manner, including as part of the disputed domain name. Moreover, nothing in the case file shows that the Respondent has been commonly known by the disputed domain name.

The disputed domain name consists of the Complainant’s SEABOARD FOODS mark followed by the suffix “inc”, which is the abbreviation of “incorporated” and is used in the US after the name of a company organized as a legal corporation. Consequently, the disputed domain name is closely related to the Complainant, and Internet users searching for the Complainant, or its subsidiary Seaboard Foods may well believe that the disputed domain name belongs to the Complainant. The composition of the disputed domain name cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

It is also evident that the disputed domain name has been used to place orders with two different companies in an attempt to obtain a number of laptops by leveraging the trust placed in the Complainant, presumably with no intention of paying. The individual who placed the orders signed with the name of one of the directors of Seaboard Foods and used the email address “[...]@seaboardfoodsinc.com”. Panels have held that the use of a domain name for illegal activity, such as phishing and impersonation/passing off, 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, the Panel finds that the Respondent was aware of the Complainant and of its marks when it registered the disputed domain name. The composition of the disputed domain name, which incorporates the Complainant’s SEABOARD FOODS mark entirely with the addition of the abbreviation “inc”, which is connected to the Complainant, is a strong indication of the Respondent’s knowledge of the Complainant’s mark at the time of the registration of the disputed domain name. The Respondent’s impersonation of a director of Seaboard Foods for phishing schemes has reinforced the fact that the Respondent knew of the Complainant when registering the disputed domain name. The registration of a disputed domain name corresponding to a third party’s trademark being aware of such trademark and without rights or legitimate interests amounts to registration in bad faith.

Despite the disputed domain name not resolving to an active website, it has been used to send fraudulent emails impersonating one of the directors of Seaboard Foods to order a number of laptops in the Complainant's name. Thus, the Respondent has set up mail exchange ("MX") records for the disputed domain name and has used the same to intentionally attempt to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

Panels have held that the use of a domain name for illegal activity here, phishing and impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <seaboardfoodsinc.com> be transferred to the Complainant.

*/Angelica Lodigiani/*

**Angelica Lodigiani**

Sole Panelist

Date: November 19, 2024