

ADMINISTRATIVE PANEL DECISION

Seaboard Corporation v. Host Master, Njalla Okta LLC
Case No. D2024-4429

1. The Parties

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

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

2. The Domain Names and Registrar

The disputed domain names <seaboardfoodsincorp.com> (the “Original Domain Name”) and <seaboardfoodscorp.com> (the “Additional Domain Name”) are registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 29, 2024. On October 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Original Domain Name. On October 29, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Original Domain Name which differed from the named Respondent (Unknown Respondent(s)) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 30, 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 November 5, 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 November 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 26, 2024.

On November 14, 2024, the Complainant requested that the Additional Domain Name be added to this proceeding.

The Center appointed Dawn Osborne as the sole panelist in this matter on November 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.

On December 4, 2024, the Panel instructed the Center to send to the Registrar, Tucows Inc., a request for registrar verification in connection with the Additional Domain Name. On December 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Additional Domain Name. On December 10, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant of the Additional Domain Name. On December 12, 2024, the Panel issued a Procedural Order re-notifying the proceedings and granting the Respondent an additional five days to provide a Response, until December 17, 2024. The Respondent did not provide any response.

Preliminary Issue: Additional Domain Name

In accordance with the General Powers of a panel under paragraph 10 of the Rules, a panel can decide any request by a party to add a domain name to existing proceedings. The Panel notes that the Additional Domain Name contains a trade mark in which the Complainant has Rights (see below) and the Respondent is also the registrant of the Additional Domain Name which was registered on November 4, 2024, after the Complainant had submitted its original Complaint dated October 29, 2024.

The Panel considers that by registering the Additional Domain Name subsequent to notification of this Complaint, the Respondent in this case has attempted to frustrate this proceeding, this being part of a continuing pattern of bad faith activity as discussed below. This is a reason to grant a request for the addition of a domain name to existing proceedings. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Editions ("[WIPO Overview 3.0](#)"), section 4.12.2.

Following the issuance of the Procedural Order dated December 12, 2024, and the failure of the Respondent to respond following the request of the Complainant to add the Additional Domain Name to the Proceedings, the Panel considers that it is not prejudicial to the Respondent and is fair and practical for the Additional Domain Name to be added and considered under these proceedings.

4. Factual Background

The Complainant is the owner of the SEABOARD FOODS mark, registered, inter alia, in the United States (Registration No. 3519968) for processed meat since October 21, 2008.

The disputed domain names both registered in 2024 do not point to active websites and have both been used for a fraudulent email scheme using the name of one of the Complainant's directors. The Respondent has already been the subject of an adverse decision under the UDRP for registering another domain name containing the Complainant's mark used for similar fraudulent activity.

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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the Complainant's trade mark incorporating the Complainant's mark in its entirety with the addition of an abbreviation of the generic word incorporated namely "incorp" or an abbreviation of the word corporation namely "corp", and the generic Top-Level Domain ("gTLD") ".com", none of which prevents the said confusing similarity.

The Respondent has no rights or legitimate interests in the disputed domain names, is not commonly known by them and is not authorised by the Complainant.

The disputed domain names have been used for a fraudulent email scheme using the name of one of the Complainant's directors. Such fraudulent use of the disputed domain names to impersonate and create a false connection with the Complainant is not a legitimate use of the disputed domain names or a bona fide offering of goods and services.

The Respondent's use of the disputed domain names shows actual knowledge of the Complainant, its rights and business, and is registration and use in bad faith for fraudulent purposes disrupting the Complainant's business. The Respondent has been the subject of an adverse decision under the UDRP for registering another domain name containing the Complainant's mark and using it for similar fraudulent activity showing a pattern of bad faith activity.

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 trade mark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within both disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "incorp" or "corp" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names or either of them and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

B. Rights or Legitimate Interest

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 names. 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 names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a disputed domain name for illegal activity here, in this case, repeated phishing attempts, 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 notes that the Respondent has made repeated phishing attempts using the disputed domain names, and another similar domain name including the Complainant's trade mark which has already been the subject of a separate adverse decision under the UDRP before another panelist. See, *Seaboard Corporation v. Host Master, Njalla Okta LLC*, WIPO Case No. [D2024-3742](#).

Panels have held that the use of domain names for illegal activity here, phishing constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Respondent has already been found to have used another domain name containing the Complainant's mark for similar acts of phishing in a separate UDRP case decided before this one. *Supra*. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy and shows a pattern of such bad faith.

The Panel also notes that the registration of the Additional Domain Name after notice of the proceedings was also a clear act in a pattern of repeated bad faith in full knowledge of the rights of the Complainant, attempting to frustrate the efficiency of the present proceedings.

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 names <seaboardfoodsincorp.com> and <seaboardfoodscorp.com> be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: December 22, 2024