

ADMINISTRATIVE PANEL DECISION

SF Investments, Inc., Smithfield Packaged Meats Corp. v. Domain Admin,
GuardPrivacy.org
Case No. D2024-1736

1. The Parties

The Complainants are SF Investments, Inc. and Smithfield Packaged Meats Corp. (jointly the “Complainant”), United States of America (“United States”), represented internally.

The Respondent is Domain Admin, GuardPrivacy.org, China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 25, 2024. On May 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 1, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 May 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 27, 2024.

The Center appointed Andrea Mondini as the sole panelist in this matter on June 4, 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 was founded in 1936, is headquartered in the United States and is a major meat producer.

The co-Complainant in this case, Smithfield Packaged Meats Corp., is an affiliate of co-Complainant SF Investments, Inc., and part of a group of companies owned by a common parent Smithfield Foods, Inc. Smithfield Packaged Meats Corp. licenses the relevant trademarks from SF Investments, Inc. for use on various meat products sold in the United States and throughout the world.

The Complainant holds several domain names containing the term “Smithfield”, among them <smithfieldfoods.com> which hosts its website.

The Complainant owns numerous trademark registrations, including:

TRADEMARK	JURISDICTION	REGISTRATION NUMBER	REGISTRATION DATE	INTERNATIONAL CLASS
SMITHFIELD	United States	2989997	August 30, 2005	29
SMITHFIELD	United States	6370768	June 1, 2021	29

Because the Respondent did not file a Response, not much is known about the Respondent.

The disputed domain name was registered on March 13, 2024.

According to the evidence submitted with the Complaint, the disputed domain name resolves to a website impersonating the Complainant.

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 as follows:

The Complainant is the largest pork meat manufacturer in the world.

The disputed domain name is confusingly similar to the SMITHFIELD trademark in which the Complainant has rights, because it incorporates this trademark in its entirety and is identical to co-Complainant's corporate legal name Smithfield Packaged Meats Corp.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The trademark SMITHFIELD has been extensively used to identify the Complainant and its meat products. The Respondent has not been authorized by the Complainant to use this trademark, is not commonly known by the disputed domain name, and there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in connection with a bona fide offering of goods and services.

The disputed domain name was registered in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its well-known trademark SMITHFIELD at the time it registered the disputed domain name.

Respondent is using the disputed domain name in bad faith, as evidenced by the website posted under the disputed domain name showing an attempt to impersonate the Complainant. The “Contact Us” page on that website lists several business locations which are addresses for the Complainant's manufacturing facilities.

The Complainant is concerned that this website may be associated with a consumer scam or other illegal activity.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;
- (ii) the 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

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 entirety of the mark is reproduced within the disputed domain name.

Although the addition of other terms such as here "packagedmeatscorp" may bear on assessment of the second and third elements, the Panel finds that in this case the addition of such terms 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](#), section 1.8.

The addition of the generic Top-Level Domain ("gTLD") ".com" in the disputed domain name is a standard registration requirement and as such may be disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). See [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 for a complainant to prove that 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.

According to the evidence submitted with the Complaint, the disputed domain name resolves to a website impersonating the Complainant and purporting to offer meat products. Panels have held that the use of a domain name for illegal activity such as here impersonating the Complainant, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, 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.

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.

In the view of the Panel, noting that that the Complainant's trademark predates the registration of the disputed domain name and considering that that the disputed domain name not only contains the Complainant's trademark but is in addition identical to co-Complainant's corporate legal name Smithfield Packaged Meats Corp., it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's trademark. In the circumstances of this case, this is evidence of registration in bad faith.

Panels have held that the use of a domain name for illegal activity such as in the present case impersonating the Complainant constitutes use in bad faith. [WIPO Overview 3.0](#), section 3.4.

Based on the available record, the Panel finds that the Complainant has established the third element of the Policy with regard to the disputed domain name.

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 <smithfieldpackagedmeatscorp.com> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: June 14, 2024