

ADMINISTRATIVE PANEL DECISION

HEB Grocery Company, LP v. Douglas Peedwart, KMFA, Olaf Biz, Daniel Glon, Roxanne Orsak, and Repossessed by Go Daddy
Case No. D2024-3878

1. The Parties

The Complainant is HEB Grocery Company, LP, United States of America ("United States"), represented by ZeroFox, United States.

The Respondents are Douglas Peedwart, KMFA, Olaf Biz, Daniel Glon, Roxanne Orsak, and Repossessed by Go Daddy, United States.

2. The Domain Names and Registrars

The disputed domain name <heb-grocers.com> is registered with eNom, LLC. The disputed domain names <hebshops.com>, <hebstore.net>, and <hebstore.org> are registered with NameCheap, Inc. The disputed domain name <thehebstore.com> is registered with GoDaddy.com, LLC. The disputed domain name <thehebstores.com> is registered with Hostinger Operations, UAB (the "Registrars").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 23, 2024. On September 24, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On September 24, 2024, and September 25, 2024, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Jason Medina) and contact information in the Complaint.

The Center sent an email communication to the Complainant on October 3, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amendment to the Complaint on November 8, 2024.

The Center verified that the Complaint together with the amendment to 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 Respondents of the Complaint, and the proceedings commenced on November 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on December 6, 2024.

The Center appointed Evan D. Brown as the sole panelist in this matter on December 17, 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 in the business of operating a supermarket chain. It owns the trademark H E B, for which it enjoys the benefits of registration (e.g., United States Reg. No. 1519398, registered on January 3, 1989).

According to the Whois records, the disputed domain names were registered on the following dates:

<heb-grocers.com>: October 26, 2023
<hebshops.com>: June 6, 2024
<hebstore.net>: June 6, 2024
<hebstore.org>: November 30, 2023
<thehebstore.com>: March 12, 2024
<thehebstores.com>: May 13, 2024

At the time of filing of the Complaint, one of the disputed domain names resolved to the Complainant's official website. The remainder do not resolve to active web pages. Certain of the disputed domain names – <hebshops.com>, <hebstore.net>, and <heb-grocers.com> – have associated mail exchange (“MX”) records.

The Complainant asserts that the disputed domain names have been used to send fraudulent email messages imitating a procurement employee of the Complainant and distributing fake or forged documents, such as purchase orders, purporting to be issued by the Complainant.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain names are identical or confusingly similar to the Complainant’s trademark; that the Respondents have no rights or legitimate interests in respect of the disputed domain names; and that the disputed domain names were registered and are being used in bad faith.

B. Respondents

The Respondents did not respond to the Complainant’s contentions.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain names are identical or confusingly similar to a trademark or

service mark in which the Complainant has rights; (ii) the Respondents have no rights or legitimate interests in respect of the disputed domain names; and (iii) the disputed domain names have been registered and are being used in bad faith. The Panel finds that all three elements have been met in this case.

A. Procedural Issue: Consolidation of Multiple Domain Names

There are six disputed domain names, which the Complainant asserts are owned by the same person or entity. The record indicates that the use of the disputed domain names reflects a coordinated and consistent effort to impersonate the Complainant, including the use of several of the disputed domain names in fraudulent email communications imitating the same employee of the Complainant.

Although the record does not contain direct evidence of related fraudulent email activity involving <hebstore.net>, its registration date coincides with that of <hebshops.com>, which has been used for fraudulent purposes, and it is registered with the same Registrar as <hebshops.com> and <hebstore.org>. These circumstances suggest that all the disputed domain names are under common control.

The Respondents have not presented any arguments against consolidation. Accordingly, conditions for proper consolidation of the disputed domain names into one matter are present here.

B. Procedural Issue: Consent to Remedy

The Panel notes that the Registrar GoDaddy has confirmed the registrant of the disputed domain name <thehebstore.com> is “Repossessed by Go Daddy” and in this capacity offered to transfer the disputed domain name to the Complainant.

“Where parties to a UDRP proceeding have not been able to settle their dispute prior to the issuance of a panel decision using the ‘standard settlement process’ described above, but where the respondent has nevertheless given its consent on the record to the transfer (or cancellation) remedy sought by the complainant, many panels will order the requested remedy solely on the basis of such consent. In such cases, the panel gives effect to an understood party agreement as to the disposition of their case (whether by virtue of deemed admission, or on a no-fault basis)”. [WIPO Overview 3.0](#), section 4.10. The Panel finds that this is an appropriate case to rely on a stated consent (here by the Registered Name Holder) to order a transfer of the disputed domain name <thehebstore.com>. See *Archer-Daniels-Midland Company v. Repossessed by Go Daddy*, WIPO Case No. [D2024-2189](#).

The Panel will make a determination on the substantive matters regarding the remaining disputed domain names below.

C. Identical or Confusingly Similar

This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain names are identical or confusingly similar to that mark. This element under the Policy functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.7.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the H E B mark by providing evidence of its trademark registrations. See [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain names incorporate the mark in its entirety. The addition of descriptive or generic terms, such as “grocers,” “shops,” “store,” and “stores,” does not prevent a finding of confusing similarity under the Policy. It is well established that the applicable Top-Level Domain (e.g., “.com,” “.net,” “.org”) is disregarded under the confusing similarity test.

Accordingly, the Panel finds that the Complainant has established this first element under the Policy.

D. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a prima facie showing that the Respondents lack rights or legitimate interests in respect of the disputed domain names. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondents (with the burden of proof always remaining with the Complainant).

The Complainant asserts that the Respondents (1) have no plans for any bona fide offering of goods or services in connection with the disputed domain names, (2) have made no fair use of the disputed domain names, (3) are not commonly known by the disputed domain names, and (4) have not been licensed or otherwise authorized by the Complainant to use its H E B mark. Further, the evidence submitted by the Complainant demonstrates that the disputed domain names have been used in connection with fraudulent email activity impersonating the Complainant. This establishes a prima facie case that the Respondents lack rights or legitimate interests in the disputed domain names.

The Respondents have provided no evidence to rebut this prima facie case or otherwise tilt the balance in their favor. Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

E. Bad Faith Registration and Use

The Policy requires the Complainant to establish that the disputed domain names were registered and are being used in bad faith.

The use of the disputed domain names to send fraudulent emails impersonating the Complainant and distributing fake documents is a clear example of bad faith under the Policy. *Signify Health, LLC v. Sasha still*, WIPO Case No. [D2023-1208](#).

Further, panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes finds that in the circumstances of this case the passive holding of the disputed domain name <hebstore.net> does not prevent a finding of bad faith under the Policy.

Additionally, the use of privacy protection services in this context, coupled with the fraudulent activity associated with the disputed domain names, reinforces the conclusion of bad faith.

Accordingly, the Panel finds that the Complainant has established this third element under the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, and the Registered Name Holder’s express consent regarding the disputed domain name <thehebstore.com>, the Panel orders that the disputed domain names <heb-grocers.com>, <hebshops.com>, <hebstore.net>, <hebstore.org>, <thehebstore.com>, and <thehebstores.com> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: December 27, 2024