

## **ADMINISTRATIVE PANEL DECISION**

Shamrock Foods Company v. Ibro Gbegi, Iseibro telecom IIs  
Case No. D2025-0028

### **1. The Parties**

Complainant is Shamrock Foods Company, United States of America ("United States"), represented by Polsinelli PC Law firm, United States.

Respondent is Ibro Gbegi, Iseibro telecom IIs, United States.

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

The Disputed Domain Name <shamrockfoodservicegroup.com> is registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 4, 2025. On January 6, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On the same day, 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 (Redacted for Privacy/Privacy Service, Provided by Withheld for Privacy ehf) and contact information in the Complaint.

The Center sent an email communication to Complainant on January 10, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 15, 2025.

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 Respondent of the Complaint, and the proceedings commenced on January 20, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 9, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on February 14, 2025.

The Center appointed Richard W. Page as the sole panelist in this matter on February 19, 2025. 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**

Founded in 1922, Complainant manufactures and distributes food and food-related products, dairy, and foodservice, specifically including delivery of Shamrock products to vendors. For over fifty-five years, Shamrock has used and continue to use the SHAMROCK FOODS Mark (including variations thereof) prominently in connection with its goods and services in the United States and in other countries.

Complainant owns registrations for the distinctive and well-known SHAMROCK FOODS Mark throughout the world including, but not limited to, the following:

United States Registration No. 1,618,160 for SHAMROCK FOODS COMPANY registered October 16, 1990 in international class 42;

United States Registration No. 1,629,594 for SHAMROCK FOODS COMPANY (design mark) registered December 25, 1990 in international class 42; and

United States Registration No. 5,623,945 for RESTAURANT 360 BY SHAMROCK FOODS registered December 4, 2018 in international class 35.

Complainant maintains its principal website at <shamrockfoodservice.com> and uses this principal domain name to advertise and transact business with its customers. Complainant has registered other domain names incorporating the SHAMROCK FOODS Mark.

The Disputed Domain Name was registered on December 16, 2024 and resolves to a website which contains a parking page with pay-per-clicks. The Disputed Domain Name has, also, been entered into a mail exchange (MX) giving Respondent the ability to send out email appearing to come from Complainant. The Complainant submitted evidence that shows that the Disputed Domain Name was flagged for phishing, however, no evidence of actual fraud emails was submitted.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that through extensive sales and advertising and because of the high quality of its products, Complainant has generated substantial goodwill and customer recognition in the SHAMROCK FOODS Mark to which Complainant has exclusive rights.

Complainant further contends that it has spent a great deal of effort and expense in protecting its valuable intellectual property rights that it has gained through developing and marketing a highly successful line of products and services. Complainant has continually used the SHAMROCK FOODS Mark in commerce for many years and owns numerous trademark registrations, in addition to its extensive common law trademark rights.

Complainant further contends that the Disputed Domain Name incorporates the essential element of the well-known SHAMROCK FOODS Mark which is clearly recognizable. The addition of the terms "service" and "group" are generic and descriptive and, as such, do nothing to dispel the confusing similarity.

Complainant alleges that Respondent is not affiliated with Complainant, licensed to use the SHAMROCK FOODS Mark, or licensed to register or use any domain name incorporating the SHAMROCK FOODS Mark.

Without permission from Complainant, Respondent registered the Disputed Domain Name. Respondent intentionally impersonated Complainant and used its distinctive SHAMROCK FOODS Mark and the <shamrockfoodservice.com> domain name to target vendors of Complainant.

Complainant further alleges that Respondent maintains a domain parking page with links to websites unaffiliated with Complainant, thereby trading on Complainant's name and goodwill. Respondent also maintains mail exchange (MX) records for the domain, with which Respondent has been sending emails to innocent third parties that impersonate Complainant. Thus, the similarity of the Disputed Domain Name to the SHAMROCK FOODS Mark and the <shamrockfoodservice.com> website is in furtherance of fraud or attempts to defraud.

Complainant further alleges that Respondent registered and used the Disputed Domain Name to spoof Complainant's principal domain name in a scheme to defraud Complainant's vendors. Specifically, Respondent used the Disputed Domain Name as part of its email address to mislead vendors into believing it was an employee/representative of Complainant. Respondent sent emails that incorporated the Disputed Domain Name in Respondent's email address "...@shamrockfoodservicegroup.com" to contact vendors for disingenuous reasons and to scam them into believing Respondent was purportedly requesting products and services on behalf of Complainant. The fraudulent procurement of products and services was a phishing attempt to utilize the Disputed Domain Name to spoof Complaint's legitimate corporate domain name.

Complainant further alleges that Respondent registered the Disputed Domain Name to trade on a false association with Complainant and in order to impersonate Complainant's <shamrockfoodservice.com> domain name. Complainant further alleges that Respondent's purpose is to engage in phishing attempts or other fraudulent activity.

Complainant further alleges that Respondent's impersonation with phishing and spoofing schemes are unauthorized and illegitimate activities. Respondent is not engaged in the bona fide offering of goods or services or in any legitimate or fair use of the Disputed Domain Name. Such activities cannot result in Respondent acquiring any rights or legitimate interests in the Disputed Domain Name. Establishing MX records allowing for the creation of deceptive email addresses is in furtherance of the phishing and spoofing schemes.

Complainant further alleges that it has found no evidence that Respondent has ever been commonly known by the Disputed Domain Name.

Complainant submits that Respondent's actions are in violation of paragraph 4(b)(iv) of the Policy and constitute bad faith registration and use of the Disputed Domain Name.

Complainant further alleges that Respondent had constructive and actual knowledge of Complainant's rights in the SHAMROCK FOODS Mark at the time Respondent registered the Disputed Domain Name.

Complainant further alleges that there is no plausible explanation for a good faith use of the Disputed Domain Name by Respondent.

Complainant argues that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.”

Even though Respondent has failed to file a Response or to contest Complainant’s assertions, the Panel will review the evidence proffered by Complainant to verify that the three essential elements of the claims are met. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.3.

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following:

- i) that the Disputed Domain Name registered by Respondent is identical or confusingly similar to the SHAMROCK FOODS Mark in which Complainant has rights; and,
- ii) that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and,
- iii) that the Disputed Domain Name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

[WIPO Overview 3.0](#), section 1.2.1 states that registration is prima facie evidence of Complainant having enforceable rights in the SHAMROCK FOODS Mark.

Complainant has shown rights in respect of the SHAMROCK FOODS Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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 SHAMROCK FOODS Mark and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the mark is recognizable within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the SHAMROCK FOODS Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here “service” and “group”, 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 Name and the SHAMROCK FOODS 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 Interests

Paragraph 4(c) of the Policy allows three nonexclusive methods for the Panel to conclude that Respondent has rights or a legitimate interest in the Disputed Domain Name:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or

(iii) you [Respondent] are making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the SHAMROCK FOODS Mark at issue.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving Respondent lacks rights or legitimate interests in the Disputed Domain Name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of Respondent. As such, where Complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted 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 Complainant submitted evidence of a company flagging the Disputed Domain Name was used to send emails to vendors, impersonating someone from the Complainant, and requesting updates to orders or quotes for various goods and services as part of a supply chain attack. Panels have held that the use of the Disputed Domain Name for illegitimate activity, here claimed as impersonation, spoofing and phishing can never confer rights or legitimate interests on 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**

Paragraph 4(b) of the Policy sets forth four nonexclusive criteria for Complainant to show bad faith registration and use of domain names:

- (i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to Complainant who is the owner of the SHAMROCK FOODS Mark or to a competitor of Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Disputed Domain Name; or
- (ii) you [Respondent] have registered the Disputed Domain Name in order to prevent the owner of the SHAMROCK FOODS Mark from reflecting it a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you [Respondent] have registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the Disputed Domain Name, you [Respondent] have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the SHAMROCK FOODS Mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product on your website or location.

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 the Disputed Domain Name in bad faith.

In the present case, the Panel notes that Respondent has engaged in activities which meet the elements of paragraph 4(b)(iv) of the Policy by intentionally attempting to attract, for commercial gain, Internet users by creating a likelihood of confusion with the SHAMROCK FOODS Mark.

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.

Panels have held that the use of the Disputed Domain Name for illegitimate activity, here claimed as impersonation, spoofing and phishing constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

The Panel finds that 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 <shamrockfoodservicegroup.com> be transferred to Complainant.

*/Richard W. Page/*

**Richard W. Page**

Sole Panelist

Date: March 4, 2025